

LEGISLATIVE COUNSEL  
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319

96TH CONGRESS  
1ST SESSION

# H. R. 4674

To promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 1979

Mr. FASCELL (by request) (for himself, Mrs. SCHROEDER, Mr. BOWEN, Mr. BUCHANAN, Mr. DERWINSKI, Mr. LEACH of Iowa, Mr. PRITCHARD, and Mr. ZABLOCKI) introduced the following bill; which was referred jointly to the Committees on Foreign Affairs and Post Office and Civil Service

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## A BILL

To promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That title I of this Act may be cited as the "Foreign Service
- 4 Act of 1979".

1 TITLE I—THE FOREIGN SERVICE ACT OF 1979

2 CHAPTER 1—GENERAL PROVISIONS

3 SEC. 101. FINDINGS AND OBJECTIVES.—(a) The Con-  
4 gress finds—

5 (1) that a career Foreign Service, characterized  
6 by excellence and discipline, is essential in the national  
7 interest to assist the President and the Secretary of  
8 State in conducting the foreign affairs of the United  
9 States;

10 (2) that the Foreign Service of the United States,  
11 established under the Foreign Service Acts of 1924  
12 and 1946, must be preserved, strengthened, and im-  
13 proved in order to carry out its mission effectively in  
14 response to the complex challenges of modern diploma-  
15 cy and international relations; and

16 (3) that the Foreign Service should be representa-  
17 tive of the American people, aware of the principles  
18 and history of the United States and informed of cur-  
19 rent concerns and trends in American life, knowledge-  
20 able of other nations' affairs, cultures, and languages,  
21 available to serve in assignments throughout the world,  
22 and operated on the basis of merit principles.

23 (b) The objectives of this Act, in order to strengthen and  
24 improve the Foreign Service of the United States, are—

1           (1) to assure, in accordance with merit principles,  
2           admission through impartial and rigorous examination,  
3           acquisition of career status only by those who have  
4           demonstrated their fitness through successful comple-  
5           tion of probationary assignments, effective career de-  
6           velopment, advancement, and retention of the ablest,  
7           and separation of those who do not meet the requisite  
8           standards of performance;

9           (2) to foster the development of policies and pro-  
10          cedures which will facilitate and encourage entry into  
11          and advancement in the Foreign Service by persons  
12          from all segments of American society, and equal op-  
13          portunity and fair and equitable treatment for all with-  
14          out regard to political affiliation, race, color, religion,  
15          national origin, sex, marital status, age, or handicap-  
16          ping condition;

17          (3) to provide for more efficient, economical, and  
18          equitable personnel administration through a simplified  
19          structure of Foreign Service personnel categories and  
20          salaries;

21          (4) to establish a statutory basis for participation  
22          by the members of the Foreign Service, through their  
23          elected representatives, in the formulation of personnel  
24          policies and procedures which affect their conditions of

1 employment, and to maintain a fair and effective  
2 system for the resolution of individual grievances;

3 (5) to minimize the impact of the hardships, dis-  
4 ruptions, and other unusual conditions of overseas  
5 service upon the members of the Foreign Service, and  
6 to mitigate the special impact of such conditions upon  
7 their families;

8 (6) to provide salaries, allowances, and benefits  
9 that will permit the Foreign Service to attract and  
10 retain qualified personnel and to provide a system of  
11 incentive payments and awards to encourage and  
12 reward outstanding performance;

13 (7) to establish a Senior Foreign Service charac-  
14 terized by strong policy formulation capabilities, out-  
15 standing executive leadership qualities, and/or highly  
16 developed functional and area expertise;

17 (8) to improve Foreign Service managerial flexi-  
18 bility and effectiveness;

19 (9) to increase efficiency and economy by promot-  
20 ing maximum compatibility among the agencies author-  
21 ized to utilize the Foreign Service personnel system, as  
22 well as compatibility between the Foreign Service and  
23 the Civil Service; and

24 (10) otherwise to enable the Foreign Service to  
25 serve effectively the interests of the United States and

1 to provide the highest caliber of representation in the  
2 conduct of foreign affairs.

3 SEC. 102. DEFINITIONS.—When used in this Act, the  
4 term—

5 (1) “abroad” means all areas not included within  
6 the United States;

7 (2) “agency” means an agency of the United  
8 States Government as defined in section 551 of title 5,  
9 United States Code;

10 (3) “chief of mission” means a principal officer in  
11 charge of a diplomatic mission of the United States or  
12 of a United States office abroad which is designated by  
13 the Secretary as diplomatic in nature (including any  
14 person assigned under this Act to be temporarily in  
15 charge of such a mission or office);

16 (4) “Department” means the Department of  
17 State;

18 (5) “function” includes any duty, obligation,  
19 power, authority, responsibility, right, privilege, discre-  
20 tion, or activity;

21 (6) “Government” means the Government of the  
22 United States of America;

23 (7) “merit principles” means the principles set out  
24 in section 2301 of title 5, United States Code;

1           (8) "principal officer" means the officer in charge  
2 of a diplomatic mission, consular mission (other than a  
3 consular agency), or other Foreign Service post of the  
4 United States;

5           (9) "Secretary" means the Secretary of State;

6           (10) "Service" means the Foreign Service of the  
7 United States;

8           (11) "United States", when used in a geographic  
9 sense, means the fifty States and the District of  
10 Columbia.

11       SEC. 103. PERSONNEL OF THE SERVICE.—The per-  
12 sonnel of the Service shall consist of the following:

13           (1) chiefs of mission, appointed under section  
14 302(a)(1) or assigned under section 511(c);

15           (2) ambassadors at large, appointed under section  
16 302(a)(1);

17           (3) the Senior Foreign Service, appointed under  
18 section 302(a)(1) or 303, who shall provide the corps of  
19 leaders and experts for the management of the Service  
20 and the performance of its mission;

21           (4) Foreign Service officers, appointed under sec-  
22 tion 302(a)(1), who shall have general responsibility for  
23 carrying out the functions of the Service;

24           (5) Foreign Service personnel, appointed under  
25 section 303, who are citizens of the United States and

1       who provide skills and services required for effective  
2       performance by the Service;

3               (6) foreign national employees, appointed under  
4       section 303, who provide clerical, administrative, tech-  
5       nical, fiscal, and other support at Foreign Service posts  
6       abroad; and

7               (7) consular agents, appointed under section 303,  
8       who provide consular and related services as author-  
9       ized by the Secretary at specified locations abroad  
10      where no Foreign Service posts are situated.

11      SEC. 104. FUNCTIONS.—Members of the Service shall,  
12      under the direction of the Secretary—

13              (1) represent the interests of the United States in  
14      relation to foreign nations and international organiza-  
15      tions, and perform the functions relevant to their ap-  
16      pointments and assignments, including (as appropriate)  
17      functions under the Vienna Convention on Diplomatic  
18      Relations, the Vienna Convention on Consular Rela-  
19      tions, other international agreements to which the  
20      United States is a party, the laws of the United States  
21      and orders, regulations, and directives issued pursuant  
22      to law;

23              (2) provide guidance for the conduct of programs  
24      and activities of the Department and other agencies

1       which relate to the foreign relations of the United  
2       States; and

3               (3) perform functions on behalf of any agency or  
4       other Government establishment (including any in the  
5       legislative or judicial branch) requiring their services.

6       CHAPTER 2—MANAGEMENT OF THE SERVICE

7       SEC. 201. THE SECRETARY OF STATE.—Under the di-  
8       rection of the President, the Secretary shall administer and  
9       direct the Service, and shall coordinate its activities with the  
10      needs of the Department and other agencies. The Secretary  
11      is authorized to prescribe such regulations as the Secretary  
12      may deem appropriate to carry out functions under this Act,  
13      and may delegate such functions which are vested in the Sec-  
14      retary to any employee of the Department or member of the  
15      Service.

16      SEC. 202. OTHER AGENCIES EMPLOYING FOREIGN  
17      SERVICE PERSONNEL.—(a) The Director of the Internation-  
18      al Communication Agency, the Director of the International  
19      Development Cooperation Agency, and the head of any other  
20      agency authorized by law to utilize the Foreign Service per-  
21      sonnel system shall exercise the functions vested in the Sec-  
22      retary by this Act, with respect to personnel of the Service in  
23      their respective agencies, subject to the provisions of chapter  
24      12 and other applicable laws.



1       (b) Except as otherwise provided, references in this Act  
2 to the "Department" and to the "Secretary" shall be  
3 deemed, with respect to the personnel and functions of the  
4 International Communication Agency, the International De-  
5 velopment Cooperation Agency, and other agencies author-  
6 ized by law to utilize the Foreign Service personnel system,  
7 to be references to such agencies and to the heads of those  
8 agencies, subject to the provisions of chapter 12 and other  
9 applicable laws. Referenes in this Act (or other law) to "For-  
10 eign Service officers" shall, with respect to the International  
11 Communication Agency, be deemed to include references to  
12 Foreign Service information officers.

13       (c) Chapters 10 and 11 of this Act shall apply only to  
14 the Department, the International Communication Agency,  
15 and the International Development Cooperation Agency.

16       (d) Nothing in this Act shall be construed as diminishing  
17 the authority of the Director of the International Communi-  
18 cation Agency or the Director of the International Develop-  
19 ment Cooperation Agency.

20       SEC. 203. THE CHIEF OF MISSION.—(a) Under the di-  
21 rection of the President, the chief of mission to a foreign  
22 country—

23               (1) shall have full responsibility for the direction,  
24 coordination, and supervision of all Government offi-  
25 cers and employees in that country, except for person-

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1       nel under the command of a United States area mili-  
2       tary commander; and

3               (2) shall keep fully and currently informed with  
4       respect to all activities and operations of the Govern-  
5       ment within that country, and shall insure that all  
6       Government officers and employees in that country,  
7       except for personnel under the command of a United  
8       States area military commander, comply fully with all  
9       applicable directives of the chief of mission.

10       (b) Any agency having officers or employees in a foreign  
11      country shall keep the chief of mission to that country fully  
12      and currently informed with respect to all activities and oper-  
13      ations of its officers and employees in that country, and shall  
14      insure that all of its officers and employees in that country,  
15      except for personnel under the command of a United States  
16      area military commander, comply fully with all applicable  
17      directives of the chief of mission.

18       SEC. 204. THE DIRECTOR GENERAL.—There shall be  
19      a Director General of the Foreign Service, who shall be ap-  
20      pointed by the President, by and with the advice and consent  
21      of the Senate, from among the career members of the Senior  
22      Foreign Service. The Director General shall assist the Secre-  
23      tary in the management of the Service and shall perform  
24      such functions, including functions under chapter 12, as the  
25      Secretary may prescribe.

1        SEC. 205. THE INSPECTOR GENERAL.—(a) There shall  
2 be an Inspector General of the Foreign Service, who shall be  
3 appointed by the President, by and with the advice and con-  
4 sent of the Senate, from among the career members of the  
5 Senior Foreign Service. Under the direction of the Secretary,  
6 the Inspector General shall inspect the work of each Foreign  
7 Service post at least every three years, shall inspect periodi-  
8 cally the bureaus and offices of the Department of State, and  
9 shall perform such functions as the Secretary may prescribe.

10        (b) Under the direction of the Secretary, the Inspector  
11 General may review the conduct of the Government's pro-  
12 grams and activities performed under the direction, coordina-  
13 tion, and supervision of chiefs of mission for the purpose of  
14 ascertaining their consonance with the foreign policy of the  
15 United States and their consistency with the responsibilities  
16 of the Secretary and the chief of mission.

17        (c) Whenever the Secretary has reason to believe that it  
18 is necessary in the public interest, the Secretary may author-  
19 ize any Foreign Service inspector acting on behalf of the In-  
20 spector General to suspend from duty any member of the  
21 Service other than a chief of mission. If the member so sus-  
22 pended is a principal officer, the Secretary may authorize a  
23 Foreign Service inspector to serve in the place of the sus-  
24 pended officer for a period not to exceed ninety days.

## 1        SEC. 206. THE BOARD OF THE FOREIGN SERVICE.—

2    The President shall establish a Board of the Foreign Service  
3    to advise the Secretary on matters relating to the Foreign  
4    Service, including furtherance of the objectives of maximum  
5    compatibility among agencies authorized by law to utilize the  
6    Foreign Service personnel system and compatibility between  
7    the Foreign Service and the Civil Service. The Board of the  
8    Foreign Service shall be chaired by a career member of the  
9    Senior Foreign Service designated by the Secretary and shall  
10   include senior representatives of the Department, the Inter-  
11   national Communication Agency, the International Develop-  
12   ment Cooperation Agency, the Office of Personnel Manage-  
13   ment, the Office of Management and Budget, and such other  
14   agencies as the President may designate.

## 15                    CHAPTER 3—APPOINTMENTS

16        SEC. 301. GENERAL REQUIREMENTS FOR APPOINT-  
17   MENT.—(a) Only citizens of the United States may be ap-  
18   pointed to the Service, other than for service abroad as a  
19   consular agent or as a foreign national employee.

20        (b) The Secretary shall prescribe appropriate written,  
21   oral, physical, and other examinations for appointment to the  
22   Service (other than as a chief of mission) in accordance with  
23   merit principles.

24        (c) The fact that an applicant for appointment as a For-  
25   eign Service officer candidate is a veteran or a disabled vet-

1 eran as defined in sections 2108 (1) or (2) of title 5, United  
2 States Code, shall be considered an affirmative factor in  
3 making appointments to the Service.

4 SEC. 302. PRESIDENTIAL APPOINTMENTS.—(a)(1) Ap-  
5 pointment in the Service as a chief of mission, as an ambas-  
6 sador at large, as a career member of the Senior Foreign  
7 Service, or as Foreign Service officer, shall be made by the  
8 President, by and with the advice and consent of the Senate.

9 (2) The President may, by and with the advice and con-  
10 sent of the Senate, confer the personal rank of career ambas-  
11 sador upon a career member of the Senior Foreign Service,  
12 in recognition of especially distinguished service over a sus-  
13 tained period. Such personal rank shall be in addition to the  
14 member's salary class, and not additional compensation shall  
15 be paid to a career ambassador solely by virtue of such  
16 personal rank.

17 (3) The personal rank of ambassador may be conferred  
18 by the President in connection with a special mission for the  
19 President not exceeding six months in duration if the Presi-  
20 dent, before conferring such rank, transmits a written report  
21 of his intent to confer such personal rank to the Committee  
22 on Foreign Relations of the Senate and transmits with that  
23 report all relevant materials concerning any potential con-  
24 flicts of interest by the proposed recipient of such personal  
25 rank.

1       (4) Except as provided in this section, appointment to  
2 any position having the title or rank of ambassador or minis-  
3 ter shall be made by the President, by and with the advice  
4 and consent of the Senate.

5       (b) If a member of the Service is appointed to any posi-  
6 tion by the President, by and with the advice and consent of  
7 the Senate or by the President alone, the period of the mem-  
8 ber's service in that position shall be regarded as an assign-  
9 ment under chapter 5, and the member shall not, by virtue of  
10 the acceptance of such assignment, lose his or her status as a  
11 member of the Service. A member of the Senior Foreign  
12 Service who accepts such an assignment may elect to contin-  
13 ue to receive the salary of his or her class and remain eligible  
14 for performance pay under chapter 4 in lieu of receiving the  
15 salary of the position to which the member is appointed by  
16 the President.

17       SEC. 303. SECRETARIAL APPOINTMENTS.—The Sec-  
18 retary is authorized to appoint the members of the Service,  
19 other than the categories described in section 302(a), in ac-  
20 cordance with the provisions of this Act and such regulations  
21 as the Secretary may prescribe.

22       SEC. 311. APPOINTMENT OF CHIEFS OF MISSION.—  
23 (a)(1) The position of chief of mission to a foreign country  
24 should be accorded to persons possessing clearly demonstrat-  
25 ed competence to perform the duties of a chief of mission,

1 including, to the maximum practicable extent, a useful  
2 knowledge of the principal language or dialect of the country  
3 in which they are to serve, and knowledge and understanding  
4 of the history, the culture, the economic and political institu-  
5 tions, and the interests of such country and its people.

6       (2) No person should be accorded the position of chief of  
7 mission to a foreign country primarily because of contribu-  
8 tions to political campaigns.

9       (3) To the extent practicable, career personnel of the  
10 Service should be given consideration for appointment to  
11 chief of mission positions.

12       (b)(1) The Secretary shall from time to time furnish the  
13 President with the names of career members of the Service  
14 qualified for appointment or assignment as chiefs of mission,  
15 together with pertinent information about such members, in  
16 order to assist the President in selecting qualified candidates  
17 for appointment or assignment as chiefs of mission.

18       (2) Each person appointed by the President as ambassa-  
19 dor or minister shall, at the time of nomination, file with the  
20 Committee on Foreign Relations of the Senate and the  
21 Speaker of the House of Representatives a report of contri-  
22 butions made by such person and by members of his or her  
23 immediate family during the period beginning on the first day  
24 of the fourth calendar year preceding the calendar year of the  
25 nomination and ending on the date of the nomination. The

1 report shall be verified by the oath or affirmation of the nomi-  
2 nee, taken before any officer authorized to administer oaths.  
3 The chairman of the Committee on Foreign Relations of the  
4 Senate shall have printed in the Congressional Record each  
5 such report. As used in this paragraph, the term "contribu-  
6 tion" has the same meaning given such term by section  
7 301(e) of the Federal Election Campaign Act of 1971 (2  
8 U.S.C. 431(e)), and the term "immediate family" means a  
9 person's spouse, and any child, parent, grandparent, brother,  
10 or sister of such person and the spouses of any of them.

11 SEC. 321. APPOINTMENT TO THE SENIOR FOREIGN  
12 SERVICE.—Appointment to the Senior Foreign Service shall  
13 be to a salary class established under section 411, and not to  
14 a position. The total number of noncareer members of the  
15 Senior Foreign Service shall not exceed 5 per centum of the  
16 members of the Senior Foreign Service.

17 SEC. 322. CAREER APPOINTMENTS.—(a) Each candi-  
18 date for a career appointment in the Service shall first serve  
19 under a limited appointment as a career candidate for a trial  
20 period of service prescribed by the Secretary. During a candi-  
21 date's trial period of service, the Secretary shall decide  
22 whether or not—

23 (1) to offer a career appointment to the candidate,  
24 or



1           (2) to recommend to the President that the candi-  
2           date be given a career appointment.

3           (b) Decisions by the Secretary under this section shall  
4           be based upon the recommendations of boards composed en-  
5           tirely or primarily of career members of the Service who shall  
6           evaluate the fitness and aptitude of candidates for the work of  
7           the Service.

8           SEC. 323. ENTRY LEVELS FOR FOREIGN SERVICE OF-  
9           FICER CANDIDATES.—A Foreign Service officer candidate  
10          shall not be initially assigned under section 431 to a salary  
11          class higher than class 4 in the Foreign Service Schedule  
12          established under section 421 unless—

13               (1) the Secretary determines in an individual case  
14               that assignment to a higher class is necessary because  
15               of the qualifications and experience of the candidate  
16               and the needs of the Service; or

17               (2) the candidate is currently serving under a  
18               career appointment in the Service at a salary rate  
19               equal to or higher than class 4 of such Schedule.

20          SEC. 324. RECALL AND REEMPLOYMENT OF CAREER  
21          PERSONNEL.—(a) Whenever the Secretary determines that  
22          the needs of the Service so require, the Secretary may recall  
23          for active duty any retired member of the Service who served  
24          under a career appointment. A retired member may be re-  
25          called under this section to any appropriate class, except that

1 a retired member may not be recalled to the Senior Foreign  
2 Service in a class higher than the member held at the time of  
3 retirement unless appointed to such higher class by the Presi-  
4 dent, by and with the advice and consent of the Senate.

5 (b) Former career personnel of the Service may be reap-  
6 pointed under section 302(a)(1) or 303, without regard to  
7 section 322, in a salary class which the Secretary considers  
8 appropriate in light of the qualifications and experience of  
9 each such candidate for reappointment.

10 SEC. 331. LIMITED AND TEMPORARY APPOINT-  
11 MENTS.—Noncareer and other limited appointments in the  
12 Service (other than as a chief of mission), including appoint-  
13 ment of a person who is an employee of an agency, shall in  
14 no event exceed five years in duration and, except as pro-  
15 vided in section 333, may not be extended or renewed. A  
16 time-limited appointment in the Service for not to exceed one  
17 year shall be a temporary appointment.

18 SEC. 332. REEMPLOYMENT RIGHTS FOLLOWING LIM-  
19 ITED APPOINTMENT.—Any employee of an agency who ac-  
20 cepts a limited appointment in the Service with the consent  
21 of the head of the agency in which the employee is regularly  
22 employed shall be entitled, upon the termination of such lim-  
23 ited appointment, to be reemployed in the same position the  
24 employee occupied at the time of appointment to the Service,  
25 or in a corresponding or higher position. Such reemployment

1 shall include receipt of any within-grade salary advancements  
2 the employee would have received in accordance with law or  
3 regulation had the employee remained in the position in  
4 which regularly employed.

5       SEC. 333. FAMILY MEMBERS OF GOVERNMENT EM-  
6 PLOYEES.—(a) The Secretary, when employing persons  
7 abroad in positions to which career Foreign Service person-  
8 nel are not customarily assigned (including vacant positions  
9 normally filled by foreign national employees when continuity  
10 over a long term is not a significant consideration), shall give  
11 equal consideration to employing available qualified family  
12 members of Foreign Service and other Government personnel  
13 assigned abroad. Family members so employed shall serve  
14 under renewable limited appointments and be paid either in  
15 accordance with the Foreign Service Schedule established  
16 under section 421 or a local compensation plan established  
17 under section 451, as appropriate.

18       (b) Employment of family members in accordance with  
19 this section must be consistent with the needs of the Service  
20 for positions for career personnel.

21       (c) The Secretary shall prescribe regulations for the  
22 guidance of all agencies regarding the employment at posts  
23 abroad of family members of Government personnel.

24       SEC. 341. DIPLOMATIC AND CONSULAR COMMIS-  
25 SIONS.—(a) The Secretary may recommend to the President

1 that a member of the Service who is a citizen of the United  
2 States be commissioned as a diplomatic or consular officer or  
3 both. The President may, by and with the advice and consent  
4 of the Senate, commission such member of the Service as a  
5 diplomatic or consular officer or both. The Secretary may  
6 commission as a vice consul a member of the Service who is  
7 a citizen of the United States. All official functions performed  
8 by a diplomatic or consular officer, including a vice consul,  
9 shall be performed under such a commission.

10 (b) Members of the Service commissioned under this sec-  
11 tion may perform under their commissions any function  
12 which any category of diplomatic officer (other than a chief of  
13 mission) or consular officer is authorized by law to perform.

14 (c) The Secretary shall define the limits of consular  
15 districts.

16 CHAPTER 4—COMPENSATION

17 SEC. 401. SALARIES OF CHIEFS OF MISSION.—(a)  
18 Each chief of mission shall receive a salary as determined by  
19 the President, at one of the annual rates provided by law for  
20 levels II through V of the Federal Executive Salary Sched-  
21 ule (5 U.S.C. 5313–5316), except as provided in section  
22 302(b).

23 (b) The salary of a chief of mission shall commence upon  
24 the effective date of appointment to that office. The official  
25 services of a chief of mission shall not be deemed terminated

1 by the appointment of a successor, but shall continue for such  
2 additional period, not to exceed fifty days after relinquishing  
3 charge of the mission, as the Secretary may determine.  
4 During that period, the Secretary may require the chief of  
5 mission to perform such functions as the Secretary may deem  
6 necessary in the interest of the Government.

7       SEC. 411. SALARIES OF THE SENIOR FOREIGN SERV-  
8 ICE.—The President shall prescribe salary classes for the  
9 Senior Foreign Service and shall prescribe an appropriate  
10 title for each class. Salary rates for the Senior Foreign Serv-  
11 ice shall not exceed the maximum rate or be less than the  
12 minimum rate of basic pay established for the Senior Execu-  
13 tive Service under section 5382 of title 5, United States  
14 Code, and shall be adjusted at the same time and in the same  
15 manner as rates of basic pay are adjusted for the Senior Ex-  
16 ecutive Service.

17       SEC. 421. THE FOREIGN SERVICE SCHEDULE.—The  
18 President shall prescribe nine classes of salary rates for mem-  
19 bers of the Service who are citizens of the United States and  
20 for whom other salary rates are not provided by this chapter.  
21 The basic salary of the highest class established under this  
22 section, which shall be designated class 1, shall not exceed  
23 the highest rate of basic pay established for grade 15 of the  
24 General Schedule described in section 5104 of title 5, United  
25 States Code. Salary rates for the Foreign Service under this

1 section shall be established in accordance with subchapter I  
2 of chapter 53 of title 5, United States Code, and shall be  
3 adjusted at the same time and in the same manner as rates of  
4 basic pay are adjusted for the General Schedule.

5 SEC. 431. ASSIGNMENT TO A SALARY CLASS.—(a)

6 The Secretary shall assign to an appropriate salary class es-  
7 tablished under this chapter each person appointed to the  
8 Service, other than a chief of mission or member of the  
9 Senior Foreign Service whose salary is determined by the  
10 terms of his or her appointment.

11 (b) The salary class to which a member of the Service is  
12 assigned under this section shall not be affected by the mem-  
13 ber's assignment to any position or post under chapter 5.  
14 Except as authorized by chapter 35 of title 5, United States  
15 Code, changes in the salary class of a member of the Senior  
16 Foreign Service or a member receiving a salary under the  
17 Foreign Service Schedule shall be made only in accordance  
18 with chapter 6.

19 SEC. 441. PERFORMANCE PAY.—(a) Members of the  
20 Senior Foreign Service who are serving—

21 (1) under career or career candidate appointments,  
22 or

23 (2) under limited appointments with reemployment  
24 rights under section 332 to the Senior Executive Serv-  
25 ice,

1 shall be eligible to compete for performance pay in accord-  
2 ance with this section. Performance pay shall be paid in a  
3 lump sum and shall be in addition to the basic salary as pre-  
4 scribed under section 411 and any other award. The fact that  
5 a member of the Senior Foreign Service competing for per-  
6 formance pay would receive compensation thereby exceeding  
7 the compensation of any other member of the Service shall  
8 not be taken into account in consideration for the award or its  
9 payment.

10 (b) Awards of performance pay shall take into account  
11 the criteria established by the Office of Personnel Manage-  
12 ment for performance awards under section 5384 of title 5,  
13 United States Code, and rank awards under section 4507 of  
14 title 5, United States Code. Such awards shall be subject to  
15 the following limitations:

16 (1) not more than 50 per centum of the members  
17 of the Senior Foreign Service may receive performance  
18 pay in any one year;

19 (2) performance pay for a member of the Senior  
20 Foreign Service may not exceed 20 per centum of the  
21 member's annual rate of basic salary except as pro-  
22 vided in paragraph (3);

23 (3) not more than 6 per centum of the members of  
24 the Senior Foreign Service may receive performance  
25 pay in any year in amounts which exceed the per-

1 centage limitation specified in paragraph (2). Payments  
2 under this paragraph to a member of the Senior For-  
3 eign Service may not exceed \$10,000 in any year,  
4 except that payments of up to \$20,000 may be made  
5 to up to 1 per centum of such members; and

6 (4) the total amount of basic salary plus perform-  
7 ance pay received by any member of the Senior For-  
8 eign Service may not exceed in any fiscal year the  
9 salary provided by law for level I of the Federal Ex-  
10 ecutive Salary Schedule (5 U.S.C. 5312).

11 (c) The Secretary shall determine the amount of per-  
12 formance pay as described in subsection (b)(2) available each  
13 year for distribution among the several classes of members of  
14 the Senior Foreign Service, and shall make distribution to  
15 particular individuals on the basis of recommendations by se-  
16 lection boards established under section 603.

17 (d) The President may grant awards of performance pay  
18 as described in subsection (b)(3) on the basis of annual recom-  
19 mendations by the Secretary of members of the Senior For-  
20 eign Service who are nominated by their agencies as having  
21 performed especially meritorious or distinguished service.  
22 Recommendations by the Secretary under this subsection  
23 shall be made on the basis of recommendations by special  
24 interagency selection boards established by the Secretary for



1 the purpose of reviewing and evaluating the nominations of  
2 agencies.

3 SEC. 442. WITHIN-CLASS SALARY INCREASES.—(a)  
4 Any member of the Service receiving a salary under the For-  
5 eign Service Schedule shall receive an increase in salary at  
6 periodic intervals to the next higher rate for the class in  
7 which such member is serving unless the member's perform-  
8 ance during any such interval is found in a review by a selec-  
9 tion board established under section 603 to fall below the  
10 standards of performance for his or her class.

11 (b) Without regard to any other law, the Secretary is  
12 authorized to grant to any member of the Service to whom  
13 subsection (a) applies additional increases in salary within the  
14 salary range established for the class in which the member is  
15 serving, based upon especially meritorious service.

16 SEC. 451. LOCAL COMPENSATION PLANS.—(a)(1) The  
17 Secretary shall establish compensation plans for foreign na-  
18 tional employees of the Service, and for United States citi-  
19 zens employed in the Service abroad who are family mem-  
20 bers of Government personnel described in section 333. Such  
21 compensation plans shall be based upon prevailing wage  
22 rates and compensation practices for corresponding types of  
23 positions in the locality (including participation in local social  
24 security plans) to the extent consistent with the public inter-  
25 est. Compensation plans established under this section may

1 include provision for leave of absence with pay for foreign  
2 national employees in accordance with prevailing law and  
3 employment practices in the locality of employment without  
4 regard to section 6310 of title 5, United States Code.

5 (2) The Secretary may make supplemental payments to  
6 any civil service annuitant who is a former foreign national  
7 employee of the Service (or is a survivor of a former foreign  
8 national employee of the Service) in order to offset exchange  
9 rate losses, if the annuity being paid such annuitant is based  
10 on—

11 (A) a salary that was fixed in a foreign currency  
12 that has appreciated in value in terms of the United  
13 States dollar; and

14 (B) service in a country in which (as determined  
15 by the Secretary) the average retirement benefits being  
16 received by those who have retired from competitive  
17 local organizations are superior to the local currency  
18 value of civil service annuities plus any other retire-  
19 ment benefits payable to foreign national employees  
20 who have retired during similar time periods and after  
21 comparable careers with the Government.

22 (b) For the purpose of performing functions abroad, any  
23 agency or other Government establishment (including any in  
24 the legislative or judicial branch) is authorized to administer  
25 employment programs for its employees who are foreign na-

1 tionals or family members of Government personnel serving  
2 abroad, in accordance with the applicable provisions of this  
3 Act.

4 (c) The Secretary may prescribe regulations governing  
5 the establishment and administration of local compensation  
6 plans under this section for the guidance of all agencies and  
7 Government establishments.

8 SEC. 452. SALARIES OF CONSULAR AGENTS.—The  
9 Secretary is authorized to establish the salary rate for each  
10 consular agent, after taking into account the workload of the  
11 consular agency and the prevailing wage rates in the locality  
12 where it is located.

13 SEC. 453. COMPENSATION FOR IMPRISONED FOREIGN  
14 NATIONAL EMPLOYEES.—(a) The head of any agency or  
15 other Government establishment (including any in the legisla-  
16 tive or judicial branch) may compensate any current or  
17 former foreign national employee, including a foreign national  
18 employee who worked under a personal services contract,  
19 who is or has been imprisoned by a foreign government if the  
20 Secretary (or, in the case of an employee of the Central In-  
21 telligence Agency, the Director of Central Intelligence) de-  
22 termines that such imprisonment is the result of the foreign  
23 national's employment by the United States. Such compensa-  
24 tion may not exceed an amount that the agency head deter-  
25 mines approximates the salary and other benefits to which

1 the employee or former employee would have been entitled  
2 had he or she remained employed during the period of such  
3 imprisonment, and may be paid under such terms and condi-  
4 tions as the Secretary deems appropriate. For the purposes of  
5 this section, the agency head shall have the same powers  
6 with respect to imprisoned foreign national employees and  
7 former employees as those of an agency head under sub-  
8 chapter VII of chapter 55 of title 5, United States Code, to  
9 the extent that such powers are consistent with this section.

10 (b) Any period of imprisonment of a foreign national  
11 which is compensable under this section shall be considered  
12 for purposes of any other employee benefit to be a period of  
13 employment by the Government, except that a period of  
14 imprisonment shall not be creditable—

15 (1) for purposes of subchapter III of chapter 83 of  
16 title 5, United States Code, unless the individual  
17 either—

18 (A) was subject to section 8334(a) of such  
19 title during the period of his or her Government  
20 employment last preceding the imprisonment; or

21 (B) qualified for annuity benefits under such  
22 subchapter III by reason of other service; or

23 (2) for purposes of subchapter I of chapter 81 of  
24 title 5, United States Code, unless the individual was

1 employed by the Government at the time of his or her  
2 imprisonment.

3 (c) No compensation or other benefit shall be awarded  
4 under this section unless a claim therefor is filed within three  
5 years after—

6 (1) the termination of the period of imprisonment  
7 giving rise to the claim, or

8 (2) the date of the claimant's first opportunity  
9 thereafter to file such a claim, as determined by the  
10 appropriate agency head.

11 (d) The Secretary may prescribe regulations governing  
12 payments under this section for the guidance of all agencies  
13 and Government establishments.

14 SEC. 461. TEMPORARY SERVICE AS PRINCIPAL OFFI-  
15 CER.—For such time as any member of the Service is tempo-  
16 rarily in charge of a post during the absence or incapacity of  
17 the principal officer he or she shall receive, in addition to the  
18 basic salary for his or her class, an amount equal to that  
19 portion which the Secretary may determine to be appropriate  
20 of the difference between such salary and the basic salary  
21 provided for the principal officer, or, if there be none, of the  
22 former principal officer.

23 SEC. 462. SPECIAL ALLOWANCES.—The Secretary  
24 may pay special allowances, in addition to compensation oth-  
25 erwise authorized, to Foreign Service officers who are re-

1 quired because of the nature of their assignments to perform  
2 additional work on a regular basis in substantial excess of  
3 normal requirements.

4 CHAPTER 5—CLASSIFICATION OF POSITIONS AND  
5 ASSIGNMENTS

6 SEC. 501. CLASSIFICATION OF POSITIONS.—The Sec-  
7 retary shall designate and classify all positions to be occupied  
8 by members of the Service (other than chiefs of mission), in-  
9 cluding positions at posts abroad and in the Department. Po-  
10 sition classifications under this section shall be established,  
11 without regard to chapter 51 of title 5, United States Code,  
12 in relation to the salary classes established under chapter 4.

13 SEC. 511. ASSIGNMENTS TO FOREIGN SERVICE POSI-  
14 TIONS.—(a) The Secretary may assign a member of the  
15 Service, in accordance with merit principles, to any position  
16 classified under section 501 in which he or she is eligible to  
17 serve (other than as chief of mission), and may transfer a  
18 member from position to position as the needs of the Service  
19 may require.

20 (b) Positions classified as Foreign Service positions nor-  
21 mally shall be filled by the assignment of members of the  
22 Foreign Service to those positions. Subject to that limita-  
23 tion—

24 (1) Foreign Service positions may be filled by per-  
25 sonnel of the Department and, under interagency

1       agreements, personnel of other agencies (including  
2       military personnel); and

3               (2) Senior Foreign Service positions may also be  
4       filled by other members of the Service.

5       (c) The President may assign a member of the Service  
6       serving under a career appointment to serve as charge d'af-  
7       fares or otherwise as the head of a mission for such period as  
8       the public interest may require.

9       SEC. 521. ASSIGNMENTS TO AGENCIES, INTERNA-  
10       TIONAL ORGANIZATIONS, AND OTHER BODIES.—(a) The  
11       Secretary may assign a member of the Service for duty—

12               (1) in a non-Foreign Service (including Senior Ex-  
13       ecutive Service) position in the Department or another  
14       agency, or in an international organization, internation-  
15       al commission, or other international body;

16               (2) with domestic or international trade, labor, ag-  
17       ricultural, scientific, or other conferences, congresses,  
18       or gatherings;

19               (3) for special instruction, training, or orientation  
20       at or with public or private nonprofit institutions, or  
21       commercial firms; and

22               (4) in the United States, or in any territory or  
23       possession thereof, or the Commonwealth of Puerto  
24       Rico, with a State or local government, public school,  
25       community college, or other public or private nonprofit

1 organization, including assignment to a Member or  
2 office of the Congress so long as assignments under  
3 this paragraph emphasize service outside Washington,  
4 District of Columbia.

5 (b)(1) The salary of a member of the Service assigned  
6 under this section shall be the salary of the member's class,  
7 irrespective of the salary of the position to which assigned,  
8 and shall be paid from appropriations made available for the  
9 payment of salaries and expenses of the Service. Such appro-  
10 priations may be reimbursed for all or any part of the salaries  
11 of members assigned under this section.

12 (2) A member of the Service assigned under subsection  
13 (a)(4) to a Member or office of the Congress shall be deemed  
14 to be an employee of the House of Representatives or the  
15 Senate, as the case may be, for purposes of payment of travel  
16 and other expenses.

17 (c) Assignments under this section shall not exceed four  
18 years of continuous service for any member of the Service,  
19 unless the Secretary approves an extension of such period in  
20 special circumstances.

21 SEC. 531. SERVICE IN THE UNITED STATES AND  
22 ABROAD.—(a) Career personnel of the Service shall be obli-  
23 gated to serve abroad, and shall be expected to serve abroad  
24 for substantial portions of their careers. The Secretary shall  
25 establish by regulation limitations upon assignments of mem-



1 bers of the Service within the United States. No member of  
2 the Service may be assigned to duty within the United States  
3 for any period of continuous service exceeding eight years  
4 unless the Secretary approves an extension of such period in  
5 special circumstances.

6 (b) Consistent with the needs of the Service, the Secre-  
7 tary shall seek to assign career members of the Service who  
8 are citizens of the United States to duty within the United  
9 States at least once during each period of fifteen years in the  
10 Service.

11 (c) The Secretary may grant a sabbatical to a career  
12 member of the Senior Foreign Service for not to exceed  
13 eleven months in order to permit the member to engage in  
14 study or uncompensated work experience which will contrib-  
15 ute to the member's development and effectiveness. A sab-  
16 batical may be granted under this subsection under conditions  
17 specified by the Secretary in light of the provisions of section  
18 3396(c) of title 5, United States Code, which apply to sabba-  
19 ticals granted to members of the Senior Executive Service.

20 SEC. 541. TEMPORARY DETAILS.—A period of duty of  
21 not more than six months in duration by a member of the  
22 Service shall be considered a temporary detail. Such a detail,  
23 whether at the commencement during the course of, or at the  
24 close of an assignment, shall not be considered an assignment  
25 within the meaning of this chapter.

1 CHAPTER 6—PROMOTION AND RETENTION

2 SEC. 601. PROMOTIONS BASED ON MERIT.—(a) Pro-  
3 motions in the Service shall be based upon merit principles.

4 (b) Promotions of—

5 (1) members of the Senior Foreign Service, and

6 (2) members receiving salaries under the Foreign  
7 Service Schedule (including promotions of such mem-  
8 bers into the Senior Foreign Service),

9 shall be based upon the recommendations and rankings of  
10 selection boards established under section 603, except that  
11 the Secretary may by regulation specify categories of career  
12 personnel receiving salaries under the Foreign Service  
13 Schedule who may receive promotions on the basis of satis-  
14 factory performance.

15 SEC. 602. PROMOTION INTO AND RETENTION IN THE  
16 SENIOR FOREIGN SERVICE.—(a) Promotions into the Senior  
17 Foreign Service shall be recommended by selection boards  
18 only from among those members of the Service who are serv-  
19 ing under career appointments at class 1 of the Foreign Serv-  
20 ice Schedule and who request that they be considered for  
21 promotion into the Senior Foreign Service. The Secretary  
22 shall prescribe the period (within any applicable time in class  
23 limitation specified under section 641(a)) during which such  
24 members may be considered for entry into the Senior Foreign  
25 Service by selection boards.

1       (b) Decisions by the Secretary on promotions into and  
2 retention in the Senior Foreign Service shall take into ac-  
3 count the needs of the Service to plan for the continuing  
4 admission of new members and for effective career develop-  
5 ment and reliable promotional opportunities.

6       (c) The affidavit requirements of sections 3332 and  
7 3333(a) of title 5, United States Code, shall not apply with  
8 respect to a member of the Service who has previously com-  
9 plied with those requirements and who subsequently is pro-  
10 moted by appointment to any class in the Senior Foreign  
11 Service without a break in service.

12       SEC. 603. SELECTION BOARDS.—The Secretary shall  
13 establish selection boards to evaluate the performance of  
14 members of the Senior Foreign Service and members receiv-  
15 ing salaries under the Foreign Service Schedule. Selection  
16 boards shall, in accordance with precepts prescribed by the  
17 Secretary, rank the members of a class on the basis of rela-  
18 tive performance and may make recommendations for—

- 19               (1) promotions under section 601(b);  
20               (2) awards of performance pay under section  
21       441(c);  
22               (3) offer or renewal of limited career extensions as  
23       described in section 641(b); and  
24               (4) such other actions as the Secretary may pre-  
25       scribe by regulation.

1        SEC. 612. BASIS FOR SELECTION BOARD REVIEW.—

2    (a) Recommendations and rankings by selection boards shall  
3    be based upon records of the character, ability, conduct, qual-  
4    ity of work, industry, experience, dependability, and general  
5    performance of members of the Service, including reports of  
6    Foreign Service inspectors, performance evaluation reports of  
7    supervisors, records of commendations, awards, reprimands,  
8    and other disciplinary actions, and (with respect to the Senior  
9    Foreign Service) records of current and prospective  
10   assignments.

11        (b) Precepts for selection boards shall include a descrip-  
12   tion of the needs of the Service for performance require-  
13   ments, skills, and qualities to be considered in recommenda-  
14   tions for promotion. The precepts for selection boards respon-  
15   sible for recommending promotion into and within the Senior  
16   Foreign Service shall emphasize performance which demon-  
17   strates the strong policy formulation capabilities, executive  
18   leadership qualities, and/or highly developed functional and  
19   area expertise required for the Senior Foreign Service.

20        SEC. 613. CONFIDENTIALITY OF RECORDS.—The rec-  
21   ords described in section 612(a) shall be maintained in ac-  
22   cordance with regulations prescribed by the Secretary.  
23   Except to the extent that they pertain to the receipt, dis-  
24   bursement, and accounting for public funds, such records  
25   shall be confidential and subject to inspection only by the

1 President, the Secretary, such officers and employees of the  
2 Government as may be authorized by law or assigned by the  
3 Secretary to work on such records, the legislative and appro-  
4 priations committees of the Congress charged with consider-  
5 ing legislation and appropriations for the Service, and repre-  
6 sentatives duly authorized by such committees. Access to  
7 such records relating to a member of the Service shall be  
8 granted to such member, upon written request.

9     SEC. 621. IMPLEMENTATION OF SELECTION BOARD  
10 RECOMMENDATIONS.—Recommendations for promotion  
11 made by selection boards shall be submitted to the Secretary  
12 in rank order by class or in rank order by specialization  
13 within a class. The Secretary shall make promotions and,  
14 with respect to the career Senior Foreign Service, shall make  
15 recommendations to the President for promotions, in accord-  
16 ance with the rankings of the selection boards. However, in  
17 special circumstances set forth by regulation, the Secretary  
18 may remove an individual name from the rank order list sub-  
19 mitted by a selection board or delay the promotion of an indi-  
20 vidual named in such a list.

21     SEC. 631. OTHER RECOMMENDATIONS FOR PROMO-  
22 TION.—(a) The Secretary may, pursuant to a recommenda-  
23 tion of the Foreign Service Grievance Board, an equal em-  
24 ployment opportunity appeals examiner, or the Special Coun-

1 sel of the Merit Systems Protection Board, or pursuant to a  
2 decision of the Merit Systems Protection Board—

3 (1) recommend to the President a promotion of a  
4 member of the Service;

5 (2) promote a member of the Service; or

6 (3) grant to a member of the Service performance  
7 pay or a within-class salary increase.

8 (b) In special circumstances set forth by regulation, the  
9 Secretary may make retroactive promotions and grants of  
10 performance pay and within-class salary increases, and may  
11 recommend retroactive promotions by the President, under  
12 section 621 and subsection (a) of this section.

13 SEC. 641. RETIREMENT FOR EXPIRATION OF TIME IN  
14 CLASS.—(a) The Secretary shall, by regulation, specify the  
15 maximum time during which—

16 (1) career members of the Senior Foreign Service,

17 (2) Foreign Service officers, and

18 (3) career members in such other Foreign Service  
19 personnel categories as may be designated by the Sec-  
20 retary who are paid salaries comparable to the salaries  
21 of Foreign Service officers,

22 may remain in class (or a combination of classes) without a  
23 promotion. The Secretary may, by regulation, increase or de-  
24 crease such maximum time for a class (or a combination of  
25 classes) as the needs of the Service may require.

1 (b) Members of the Service whose maximum time in  
2 class under subsection (a) expires—

3 (1) after they have attained the highest class for  
4 their respective personnel categories, or

5 (2) while they are serving as members of the  
6 Senior Foreign Service in classes designated by the  
7 Secretary,

8 may continue to serve only under limited extensions of their  
9 career appointments. Such limited extensions shall not  
10 exceed five years in duration and may be granted and re-  
11 newed by the Secretary in light of the recommendations of  
12 selection boards established under section 602 and the needs  
13 of the Service. Personnel serving under such limited career  
14 extensions shall continue to be considered career members of  
15 the Service.

16 (c) Any member of the Service who does not receive a  
17 promotion within an applicable time in class limitation speci-  
18 fied under subsection (a), or whose limited career extension  
19 under subsection (b) is terminated or not renewed, shall be  
20 retired from the Service and receive benefits in accordance  
21 with section 643.

22 **SEC. 642. RETIREMENT BASED ON RELATIVE PER-**  
23 **FORMANCE.—**(a) The Secretary shall prescribe regulations  
24 concerning the standards of performance to be met by career  
25 members of the Service who are citizens of the United

1 States. Whenever a selection board review indicates that the  
2 performance of such a career member of the Service may not  
3 meet the standards of performance for his or her class, the  
4 Secretary shall provide for administrative review of the mem-  
5 ber's performance. The review shall include an opportunity  
6 for the member to be heard.

7 (b) In any case where the administrative review con-  
8 ducted under subsection (a) substantiates that a member of  
9 the Service has failed to meet the standards of performance  
10 for his or her class, the member shall be retired from the  
11 Service and receive benefits in accordance with section 643.

12 SEC. 643. RETIREMENT BENEFITS.—(a) A member of  
13 the Service—

14 (1) whose limited extension of a career appoint-  
15 ment under section 641(b) is terminated or not re-  
16 newed; or

17 (2) who is otherwise retired under section 641 or  
18 642—

19 (A) after becoming eligible for voluntary re-  
20 tirement under section 835, or

21 (B) from the Senior Foreign Service or from  
22 class 1 of the Foreign Service Schedule,

23 shall receive retirement benefits in accordance with section  
24 821.



1 (b) Any other member of the Service who is retired  
2 under section 641 or 642 shall receive—

3 (1) one-twelfth of a year's salary at his or her  
4 then current salary rate for each year of service and  
5 proportionately for a fraction of a year, but not exceed-  
6 ing a total of one year's salary at his or her then cur-  
7 rent salary rate, payable without interest from the For-  
8 eign Service Retirement and Disability Fund, in three  
9 equal installments on the first day of January following  
10 the member's retirement and on the two anniversaries  
11 of this date immediately following: *Provided*, That in  
12 special cases, the Secretary may accelerate or combine  
13 the installments; and

14 (2) a refund of the contributions made to the For-  
15 eign Service Retirement and Disability Fund as pro-  
16 vided in section 841, except that in lieu of such refund  
17 a member who has at least five years of service credit  
18 toward retirement under the Foreign Service Retire-  
19 ment and Disability System (excluding military or  
20 naval service) may elect to receive retirement benefits  
21 on reaching age sixty in accordance with section 821.  
22 In the event that a member has elected to receive re-  
23 tirement benefits and dies before reaching the age of  
24 sixty his or her death shall be considered a death in  
25 service within the meaning of section 832.

1 (c) Notwithstanding section 3477 of the Revised Stat-  
2 utes (31 U.S.C. 203) or any other law, a member of the  
3 Service who is retired under section 641 or 642 shall have  
4 the right to assign to any person or corporation the whole or  
5 any part of the benefits receivable by him or her under sub-  
6 section (b)(1). Any such assignment shall be on a form ap-  
7 proved by the Secretary of the Treasury and a copy thereof  
8 shall be deposited with the Secretary of the Treasury by the  
9 person executing the assignment.

10 SEC. 651. SEPARATION FOR CAUSE.—(a) The Secre-  
11 tary may separate any member from the Service for such  
12 cause as will promote the efficiency of the Service. No  
13 member serving under a career appointment and paid a  
14 salary specified for the Senior Foreign Service or in the For-  
15 eign Service Schedule shall be so separated until he or she  
16 has been granted a hearing before the Foreign Service  
17 Grievance Board and the cause for separation established at  
18 such hearing, unless the member waives in writing the right  
19 to a hearing. This section shall also apply to any such  
20 member of the Service who is in a probationary status or  
21 whose appointment is limited or temporary, when separation  
22 is by reason of misconduct. The hearing provided under this  
23 subsection shall be in lieu of any other administrative proce-  
24 dure authorized or required by this or any other law.

1       (b) Any participant in the Foreign Service Retirement  
2 and Disability System separated under subsection (a) shall be  
3 entitled to receive a refund of the contributions made by the  
4 participant to the Foreign Service Retirement and Disability  
5 Fund as provided in section 841. Except in cases where the  
6 Secretary determines that separation was based in whole or  
7 in part on the ground of disloyalty to the United States, a  
8 participant who has at least five years of service credit  
9 toward retirement under this System (excluding military or  
10 naval service) may elect, in lieu of such refund, to receive  
11 retirement benefits on reaching age sixty in accordance with  
12 section 821.

13       (c) Any member of the Service separated under subsec-  
14 tion (a) who is not a participant in the Foreign Service Re-  
15 tirement and Disability System shall be entitled only to such  
16 benefit as shall accrue to him or her under the retirement  
17 system in which the member is a participant.

18       SEC. 661. TERMINATION OF LIMITED AND TEMPO-  
19 RARY APPOINTMENTS.—(a) Except as provided in subsec-  
20 tion (b), and notwithstanding any other law, the Secretary  
21 may terminate at any time the services of any member of the  
22 Service who is paid a salary specified for the Senior Foreign  
23 Service or in the Foreign Service Schedule or is a family  
24 member serving under a local compensation plan, and who is  
25 serving under a limited or temporary appointment.

1 (b) The termination of a limited appointment described  
2 in subsection (a) because of misconduct shall be subject to the  
3 provisions of section 651.

4 SEC. 671. TERMINATION OF CONSULAR AGENTS AND  
5 FOREIGN NATIONAL PERSONNEL.—Notwithstanding any  
6 other law, the Secretary may terminate at any time the serv-  
7 ices of any consular agent or foreign national employee after  
8 giving due consideration to the criteria and procedures nor-  
9 mally followed in the locality in similar circumstances.

10 CHAPTER 7—FOREIGN SERVICE INSTITUTE, CAREER  
11 DEVELOPMENT, TRAINING, AND ORIENTATION

12 SEC. 701. FOREIGN SERVICE INSTITUTE.—(a) The  
13 Secretary shall maintain and operate the Foreign Service In-  
14 stitute (hereinafter the “Institute”) originally established  
15 under section 701 of the Foreign Service Act of 1946 (60  
16 Stat. 1018), in order to promote career development within  
17 the Service and to provide necessary training and instruction  
18 in the field of foreign relations to personnel of the Service,  
19 and of the Department and other agencies. The Institute  
20 shall be headed by a Director, who shall be appointed by the  
21 Secretary.

22 (b) The Secretary may, in addition, provide to members  
23 of the families of such personnel in anticipation of their as-  
24 signment abroad or while abroad—

1           (1) appropriate orientation and language training;  
2           and

3           (2) functional training for anticipated prospective  
4           employment under section 333.

5           (c) To the extent practicable, the Secretary shall provide  
6 training under this chapter which meets the needs of all  
7 agencies, and other agencies shall avoid duplicating the facili-  
8 ties and training provided by the Secretary through the Insti-  
9 tute and otherwise.

10       SEC. 702. FOREIGN LANGUAGE REQUIREMENTS.—

11 The Secretary shall establish foreign language proficiency re-  
12 quirements for members of the Service who are to be as-  
13 signed abroad in order that posts abroad will be staffed by  
14 personnel having a useful knowledge of the language or  
15 dialect common to the country where the post is located. The  
16 Secretary shall arrange for appropriate language training of  
17 members of the Service at the Institute or elsewhere in order  
18 to assist in meeting such requirements.

19       SEC. 703. TRAINING AUTHORITIES.—In the exercise  
20 of functions under this chapter, the Secretary may—

21           (1) provide for the general nature of the training  
22           and instruction to be furnished in the Institute, includ-  
23           ing functional and geographic area specializations;

24           (2) correlate training and instruction with courses  
25           given at other Government institutions and at private

1 institutions which furnish training and instruction  
2 useful in the field of foreign affairs;

3 (3) encourage and foster programs complementary  
4 to those in the Institute, including through grants and  
5 other gratuitous assistance to nonprofit institutions co-  
6 operating in any of the programs under this chapter;

7 (4) pay the tuition and other expenses of person-  
8 nel assigned or detailed in accordance with law for  
9 special instruction or training, including orientation,  
10 language, and career development training;

11 (5) employ personnel in accordance with the civil  
12 service laws and regulations and chapter 51 and sub-  
13 chapter III of chapter 53 of title 5, United States  
14 Code, except that, when deemed necessary by the Sec-  
15 retary for the effective administration of this chapter,  
16 personnel may be employed without regard to the civil  
17 service laws and regulations and chapter 51 and sub-  
18 chapter III of chapter 53 of title 5, United States  
19 Code, at any of the rates specified in the General  
20 Schedule described in section 5104 of title 5, United  
21 States Code (including in the absence of suitably quali-  
22 fied United States citizens persons who are not citizens  
23 of the United States), by appointment on a full-time,  
24 part-time, or intermittent basis or by contract for  
25 services in the United States or abroad;

1           (6) provide special monetary or other incentives to  
2       encourage Foreign Service personnel to acquire or  
3       retain proficiency in esoteric foreign languages or  
4       special abilities needed in the Service; and

5           (7) acquire such real and personnel property and  
6       equipment as may be necessary for the establishment,  
7       maintenance, and operation of the facilities necessary  
8       to carry out the provisions of this chapter without  
9       regard to section 3709 of the Revised Statutes (41  
10      U.S.C. 5) and section 302 of the Federal Property and  
11      Administrative Services Act of 1949 (41 U.S.C. 252).

12      SEC. 704. TRAINING AND ORIENTATION GRANTS.—(a)  
13      To facilitate orientation and language training provided to  
14      members of families of Government personnel under this  
15      chapter, the Secretary may make grants to family members  
16      attending approved orientation and language programs of  
17      study. No such grant may exceed the amount actually ex-  
18      pended for necessary costs incurred in conjunction with such  
19      attendance and in no event may any such grant exceed \$300  
20      per month per individual. No individual may receive such a  
21      grant for more than six months in connection with any one  
22      assignment.

23           (b) If a member of the family of a member of the Service  
24      who is assigned abroad is unable to participate in language  
25      training provided by the Department at the Institute or else-

1 where, the Secretary may compensate that family member  
2 for all or part of the costs of the language training, related to  
3 the assignment abroad, which is undertaken at a public or  
4 private institution.

5 SEC. 705. CAREER COUNSELING.—(a) In order to  
6 facilitate their transition from the Service, the Secretary may  
7 provide professional career counseling, advice, and placement  
8 assistance, by contract or otherwise, to members and former  
9 members of the Service other than those separated for cause.

10 (b) The Secretary may facilitate the employment of  
11 spouses of Foreign Service personnel by—

12 (1) providing regular career counseling for such  
13 spouses;

14 (2) maintaining a centralized system for cataloging  
15 their skills and the various governmental and nongo-  
16 vernmental overseas employment opportunities availa-  
17 ble to them; and

18 (3) otherwise assisting them in obtaining overseas  
19 employment.

20 CHAPTER 8—FOREIGN SERVICE RETIREMENT AND  
21 DISABILITY SYSTEM

22 SEC. 801. ADMINISTRATION AND MAINTENANCE OF  
23 THE SYSTEM.—(a) In accordance with such regulations as  
24 the President may prescribe, the Secretary shall administer  
25 the Foreign Service Retirement and Disability System (here-



1 inafter the "System"), originally established by section 18 of  
2 the Act of May 24, 1924 (43 Stat. 144).

3 (b) The Secretary of the Treasury shall maintain the  
4 special fund, known as the Foreign Service Retirement and  
5 Disability Fund (hereinafter the "Fund"), originally consti-  
6 tuted by section 18 of the Act of May 24, 1924 (43 Stat.  
7 144).

8 SEC. 803. PARTICIPANTS.—(a) The following persons  
9 (hereinafter "participants") shall be entitled to the benefits of  
10 the System:

11 (1) every person serving under a career appoint-  
12 ment—

13 (A) in the Senior Foreign Service, or  
14 (B) under the Foreign Service Schedule; and

15 (2) every chief of mission, not otherwise entitled  
16 to be a participant, who—

17 (A) has served as chief of mission for an  
18 aggregate period of twenty years or more, and

19 (B) has paid into the Fund a special contri-  
20 bution for each year of such service in accordance  
21 with section 811.

22 (b) Any otherwise eligible person who is appointed to a  
23 position by the President, by and with the advice and consent  
24 of the Senate or by the President alone, shall not by virtue of

1 the acceptance of such appointment cease to be eligible to  
2 participate in the System.

3 SEC. 804. DEFINITIONS.—When used in this chapter,  
4 unless otherwise specified, the term—

5 (1) “annuitant” means any person, including a  
6 former participant or survivor, who meets all require-  
7 ments for an annuity from the Fund under this or any  
8 other Act and who has filed a claim therefor;

9 (2) “child” means—

10 (A) an unmarried child of a participant under  
11 the age of eighteen years (or an unmarried child  
12 regardless of age who because of physical or  
13 mental disability incurred before age eighteen is  
14 incapable of self-support) who is—

15 (i) an offspring, or adopted child of the  
16 participant,

17 (ii) a stepchild or recognized natural  
18 child, who received more than one-half sup-  
19 port from the participant, or

20 (iii) a child who lived with and for  
21 whom a petition of adoption was filed by a  
22 participant, and who is adopted by the sur-  
23 viving spouse of the participant after the  
24 latter's death; and

1 (B) an unmarried student below age twenty-  
2 two (for this purpose a child whose twenty-second  
3 birthday occurs before July 1 or after August 31  
4 of a calendar year, and while a student is deemed  
5 to have become twenty-two years of age on the  
6 first day of July after that birthday);

7 (3) "Foreign Service normal cost" means the  
8 level percentage of payroll required to be deposited in  
9 the Fund to meet the cost of benefits payable under  
10 the System (computed in accordance with generally ac-  
11 cepted actuarial practice on an entry-age basis) less the  
12 value of retirement benefits earned under another re-  
13 tirement system for Government employees and less  
14 the cost of credit allowed for military service;

15 (4) "Fund balance" means the sum of—

16 (A) the investments of the Fund calculated at  
17 par value, plus

18 (B) the cash balance of the Fund on the  
19 books of the Treasury;

20 (5) "lump-sum credit" means the compulsory and  
21 special contributions to a participant's or former par-  
22 ticipant's credit in the Fund plus interest thereon at 4  
23 per centum a year compounded annually to December  
24 31, 1976, and after such date for a participant who  
25 separates from the Service after completing at least

1 one year of civilian service and before completing five  
2 years of such service, at the rate of 3 per centum per  
3 year to the date of separation. Interest shall not be  
4 paid for a fractional part of a month in the total serv-  
5 ice on or compulsory and special contributions from an  
6 annuitant for recall service or other service performed  
7 after the date of separation which forms the basis for  
8 annuity;

9 (6) "military and naval service" means honorable  
10 active service—

11 (A) in the Armed Forces of the United  
12 States,

13 (B) in the Regular or Reserve Corps of the  
14 Public Health Service after June 30, 1960, or

15 (C) as a commissioned officer of the National  
16 Oceanic and Atmospheric Administration or pred-  
17 ecessor organization after June 30, 1961,

18 but does not include service in the National Guard  
19 except when ordered to active duty in the service of  
20 the United States;

21 (7) "student" means a child regularly pursuing a  
22 full-time course of study or training in residence in a  
23 high school, trade school, technical or vocational insti-  
24 tute, junior college, college, university or comparable  
25 recognized educational institution (a child who is a stu-

1       dent shall not be deemed to have ceased to be a stu-  
2       dent during any period between school years, semes-  
3       ters or terms if the period of nonattendance does not  
4       exceed five calendar months and if the child shows to  
5       the satisfaction of the Secretary that he or she has a  
6       bona fide intention of continuing to pursue his or her  
7       course of study during the school year, semester, or  
8       term immediately following such period);

9       (8) "surviving spouse" means the surviving wife  
10      or husband of a participant or annuitant who, in the  
11      case of a death in Service or marriage after retirement,  
12      was married to the participant or annuitant for at least  
13      one year immediately preceding his or her death or is  
14      the parent of a child born of the marriage;

15      (9) "unfunded liability" means the estimated  
16      excess of the present value of all benefits payable from  
17      the Fund over the sum of—

18      (A) the present value of deductions to be  
19      withheld from the future basic salary of partici-  
20      pants and of future agency contributions to be  
21      made in their behalf, plus

22      (B) the present value of Government pay-  
23      ments to the Fund under section 865, plus

24      (C) the Fund balance as of the date the un-  
25      funded liability is determined.

1        SEC. 811. CONTRIBUTIONS TO THE FUND.—(a) Seven  
2 per centum of the basic salary received by each participant  
3 shall be contributed to the Fund for the payment of annuities,  
4 cash benefits, refunds, and allowances. An equal sum shall  
5 also be contributed from the respective appropriations or fund  
6 which is used for payment of the participant's salary. The  
7 amounts deducted and withheld from basic salary together  
8 with the amounts so contributed from the appropriation or  
9 fund shall be deposited by the Department in the Fund.

10        (b) Each participant shall be deemed to consent and  
11 agree to such deductions from basic salary. Payment less  
12 such deductions shall be a full and complete discharge and  
13 acquittance of all claims and demands whatsoever for all reg-  
14 ular services during the period covered by such payment,  
15 except the right to the benefits to which the participant shall  
16 be entitled under this Act, notwithstanding any law, rule, or  
17 regulation affecting the individual's salary.

18        (c)(1) If a member of the Service under another retire-  
19 ment system for Government employees becomes a partici-  
20 pant in the System by direct transfer, such member's total  
21 contributions and deposits that would otherwise be refundable  
22 on separation (except voluntary contributions), including in-  
23 terest thereon, shall be transferred to the Fund effective as of  
24 the date such member becomes a participant in the System.  
25 Each such member shall be deemed to consent to the transfer

1 of such funds and such transfer shall be a complete discharge  
 2 and acquittance of all claims and demands against the other  
 3 Government retirement fund on account of service rendered  
 4 prior to becoming a participant in the System.

5 (2) No member of the Service whose contributions are  
 6 transferred to the Fund under paragraph (1) shall be required  
 7 to make additional contributions for periods of service for  
 8 which required contributions were made to the other Govern-  
 9 ment retirement fund; nor shall any refund be made to any  
 10 such member on account of contributions made during any  
 11 period to the other Government retirement fund at a higher  
 12 rate than that fixed by subsection (d).

13 (d) Any participant credited with civilian service after  
 14 July 1, 1924—

15 (1) for which no retirement contributions, deduc-  
 16 tions, or deposits have been made, or

17 (2) for which a refund of such contributions, de-  
 18 ductions, or deposits has been made which has not  
 19 been redeposited,

20 may make a special contribution to the Fund equal to the  
 21 following percentages of basic salary received for such  
 22 service:

Service	Percent of basic salary
July 1, 1924, through October 15, 1960, inclusive.....	5
October 16, 1960, through December 31, 1969, inclusive .....	6½
On and after January 1, 1970.....	7

1 Notwithstanding the foregoing, a special contribution for  
2 prior nondeposit service as a National Guard technician  
3 which would be creditable toward retirement under sub-  
4 chapter III of chapter 83 of title 5, United States Code, and  
5 for which a special contribution has not been made, shall be  
6 equal to the special contribution for such service computed in  
7 accordance with the above schedule multiplied by the per-  
8 centage of such service that is creditable under section 851.  
9 Special contributions shall include interest computed from the  
10 midpoint of each service period included in the computation,  
11 or from the date refund was paid to the date of payment of  
12 the special contribution or commencing date of annuity,  
13 whichever is earlier. Interest shall be compounded at the  
14 annual rate of 4 per centum to December 31, 1976, and 3  
15 per centum thereafter. No interest shall be charged on special  
16 contributions for any period of separation from Government  
17 service which began before October 1, 1956. Special contri-  
18 butions may be paid in installments (including by allotment of  
19 pay) when authorized by the Secretary.

20 (e) No contributions shall be required for any period of  
21 military or naval service, or for any period for which credit is  
22 allowed to persons of Japanese ancestry under section 851  
23 for periods of internment during World War II.



1 (f) A participant or survivor may make a special contri-  
2 bution at any time before receipt of annuity and may author-  
3 ize payment by offset against initial annuity accruals.

4 SEC. 821. COMPUTATION OF ANNUITIES.—(a) The an-  
5 nuity of a participant shall be equal to 2 per centum of his or  
6 her average basic salary for the highest three consecutive  
7 years of service multiplied by the number of years, not ex-  
8 ceeding thirty-five, of service credit obtained in accordance  
9 with sections 851 and 853. However, the highest three years  
10 of service shall be used in computing the annuity of any par-  
11 ticipant who serves as chief of mission and whose continuity  
12 of service as such is interrupted prior to retirement by ap-  
13 pointment or assignment to any other position determined by  
14 the Secretary to be of comparable importance. In determin-  
15 ing the aggregate period of service upon which the annuity is  
16 to be based, the fractional part of a month, if any, shall not  
17 be counted. The annuity shall be reduced by 10 per centum  
18 of any special contribution described in section 811(d) due for  
19 service for which no contributions were made and remaining  
20 unpaid unless the participant elects to eliminate the service  
21 involved for purposes of annuity computation.

22 (b)(1) Except as provided in paragraph (2), any married  
23 participant who retires shall receive a reduced annuity and  
24 provide a maximum survivor annuity for his or her spouse.  
25 Such a participant's annuity or any portion thereof designat-

1 ed in writing by the participant as the base for the survivor  
2 benefit shall be reduced by 2½ per centum of the first  
3 \$3,600 plus 10 per centum of any amount over \$3,600. If an  
4 annuitant entitled to receive a reduced annuity under this  
5 subsection dies and is survived by a spouse, a survivor annu-  
6 ity shall be paid to the surviving spouse equal to 55 per  
7 centum of the full amount of the participant's annuity com-  
8 puted under subsection (a), or by 55 per centum of any lesser  
9 amount the annuitant designated under paragraph (2) at the  
10 time of retirement as the base for the survivor benefit.

11 (2) A married participant may elect in writing at the  
12 time of retirement to waive or reduce the maximum survivor  
13 annuity for his or her spouse described in paragraph (1). In  
14 recognition of the special sacrifices made by spouses of For-  
15 eign Service personnel, whose opportunities to achieve eco-  
16 nomic independence and self-sufficiency are severely  
17 curtailed by the disruptions of frequent reassignment and by  
18 the inherent limitations of service abroad on employment and  
19 career development, such an election may be made only with  
20 the written concurrence of the participant's spouse if the  
21 spouse has resided with the participant on assignments in the  
22 Service, including assignments abroad, for an aggregate  
23 period of ten years or more.

24 (3) An annuity payable from the Fund to a surviving  
25 spouse shall commence on the day after the annuitant dies

1 and shall terminate on the last day of the month before the  
2 survivor's remarriage prior to attaining age sixty, or death. If  
3 a survivor annuity is so terminated because of remarriage, it  
4 shall be restored at the same rate commencing on the date  
5 such remarriage is terminated if any lump sum paid upon  
6 termination of the annuity is returned to the Fund.

7 (c)(1) If an annuitant dies and is survived by a spouse  
8 and by a child or children, in addition to the annuity payable  
9 to the surviving spouse, there shall be paid to or on behalf of  
10 each child an annuity equal to the smaller of—

11 (A) \$900, or

12 (B) \$2,700 divided by the number of children.

13 (2) If an annuitant dies and is not survived by a spouse  
14 but by a child or children, each surviving child shall be paid  
15 an annuity equal to the smaller of—

16 (A) \$1,080, or

17 (B) \$3,240 divided by the number of children.

18 (3) The amounts specified in this subsection are subject  
19 to—

20 (A) cost-of-living adjustments as specified under  
21 section 882(c)(3), and

22 (B) the minimum specified in subsection (1) of this  
23 section.

24 (d) If a surviving spouse dies or the annuity of a child is  
25 terminated, the annuities of any remaining children shall be

1 recomputed and paid as though such spouse or child had not  
2 survived the participant. If the annuity to a surviving child is  
3 initiated or resumed, the annuities of any other children shall  
4 be recomputed and paid from that date as though the annu-  
5 ities to all currently eligible children in the family were then  
6 being initiated.

7 (e) The annuity payable to a child under subsection (c)  
8 or (d) shall begin on the day after the participant dies, or if  
9 the child is not then qualified, on the first day of the month in  
10 which the child becomes eligible. A child's annuity shall ter-  
11 minate on the last day of the month which precedes the  
12 month in which eligibility ceases.

13 (f) At the time of retirement an unmarried participant  
14 may elect to receive a reduced annuity and to provide for an  
15 annuity equal to 55 per centum of the reduced annuity pay-  
16 able after his or her death to a beneficiary whose name shall  
17 be designated in writing to the Secretary. The annuity pay-  
18 able to a participant making such election shall be reduced by  
19 10 per centum of an annuity computed as provided in subsec-  
20 tion (a), and by 5 per centum of an annuity so computed for  
21 each full five years the person designated is younger than the  
22 retiring participant, but such total reduction shall not exceed  
23 40 per centum. No such election of a reduced annuity pay-  
24 able to a beneficiary shall be valid until the participant shall  
25 have satisfactorily passed a physical examination as pre-

1 scribed by the Secretary. The annuity payable to a benefi-  
2 ary under this subsection shall begin on the day after the  
3 annuitant dies and shall terminate on the last day of the  
4 month preceding the survivor's death. An annuity which is  
5 reduced under this subsection or any similar prior provision  
6 of law shall, effective the first day of the month following the  
7 death of the individual named under this subsection, be re-  
8 computed and paid as if the annuity had not been so reduced.

9 (g) An annuitant who was unmarried at retirement and  
10 who later marries may, within one year after such marriage,  
11 irrevocably elect in writing a reduced annuity with benefit to  
12 any surviving spouse who qualifies under section 804(8). Re-  
13 ceipt by the Secretary of notice of an election under this sub-  
14 section voids prospectively any election previously made  
15 under subsection (f). The reduction in annuity required by an  
16 election under this subsection shall be computed and the  
17 amount of the survivor annuity shall be determined as if the  
18 election were made under subsection (b)(1). The annuity re-  
19 duction or recomputation shall be effective the first day of the  
20 month beginning one year after the date of marriage.

21 (h) A surviving spouse shall not become entitled to a  
22 survivor annuity or to the restoration of a survivor annuity  
23 payable from the Fund unless the survivor elects to receive it  
24 instead of any other survivor annuity to which he or she may

1 be entitled under this or any other retirement system for  
2 Government employees.

3 (i) Any married annuitant who reverts to retired status  
4 with entitlement to a supplemental annuity under section 871  
5 shall, unless the annuitant elects in writing to the contrary at  
6 that time (subject to the same conditions as are specified in  
7 subsection (b)(2) of this section), have the supplemental annu-  
8 ity reduced by 10 per centum to provide a supplemental sur-  
9 vivor annuity for his or her spouse. Such supplemental survi-  
10 vor annuity shall be equal to 55 per centum of the annu-  
11 itant's supplemental annuity and shall be payable to a surviv-  
12 ing spouse to whom the annuitant was married at the time of  
13 reversion to retired status or to whom the annuitant had been  
14 married for at least one year at the time of death or who is  
15 the parent of a child born of the marriage.

16 (j) An annuity which is reduced under this section or  
17 any similar prior provision of law to provide a survivor bene-  
18 fit for a spouse shall, for each full month during which an  
19 annuitant is not married (or is remarried if there is no elec-  
20 tion in effect under the following sentence), be recomputed  
21 and paid as if the annuity had not been so reduced. Upon  
22 remarriage the retired participant may irrevocably elect  
23 during such marriage, in a signed writing received by the  
24 Secretary within one year after such remarriage, a reduction  
25 in annuity for the purpose of allowing an annuity for the

1 annuitant's spouse in the event such spouse survives the an-  
2 nuitant. Such reduction shall be equal to the reduction in  
3 effect immediately before the dissolution of the previous mar-  
4 riage, and shall be effective the first day of the first month  
5 beginning one year after the date of remarriage. A survivor  
6 annuity elected under this subsection shall be treated in all  
7 respects as a survivor annuity elected under subsection (b)(1).

8 (k) The Secretary shall, on an annual basis, inform each  
9 participant of his or her right of election under subsections (g)  
10 and (j).

11 (l)(1) The monthly rate of an annuity payable under this  
12 chapter to an annuitant, or to a survivor annuitant other than  
13 a child, shall not be less than the smallest primary insurance  
14 amount, including any cost of living increase added to that  
15 amount, authorized to be paid from time to time under title II  
16 of the Social Security Act (42 U.S.C. 401 et seq.).

17 (2) The monthly rate of an annuity payable under this  
18 chapter to a surviving child shall not be less than the small-  
19 est primary insurance amount, including any cost-of-living in-  
20 crease added to that amount, authorized to be paid from time  
21 to time under title II of the Social Security Act (42 U.S.C.  
22 401 et seq.) or three times such primary insurance amount  
23 divided by the number of surviving children entitled to an  
24 annuity, whichever is the lesser.

1       (3) This subsection shall not apply to an annuitant or to  
2 a survivor who is or becomes entitled to receive from the  
3 United States an annuity or retired pay under any other civil-  
4 ian or military retirement system, benefits under title II of  
5 the Social Security Act (42 U.S.C. 401 et seq.), a pension,  
6 veterans' compensation, or any other periodic payment of a  
7 similar nature, when the monthly rate thereof is equal to or  
8 greater than the smallest primary insurance amount, includ-  
9 ing any cost-of-living increase added to that amount, author-  
10 ized to be paid from time to time under title II of the Social  
11 Security Act (42 U.S.C. 401 et seq.).

12       SEC. 822. PAYMENT OF ANNUITY.—(a) Except as  
13 otherwise provided, the annuity of a former participant who  
14 has met the eligibility requirements for annuity shall com-  
15 mence on the day after separation from the Service or on the  
16 day after pay ceases. The annuity of a former participant  
17 who is entitled to a deferred annuity under this Act shall  
18 become effective on the day he or she reaches age sixty.

19       (b) The annuity to a survivor shall become effective as  
20 otherwise specified but shall not be paid until the survivor  
21 submits an application therefor supported by such proof of  
22 eligibility as the Secretary may require. If such application or  
23 proof of eligibility is not submitted during an otherwise eligi-  
24 ble person's lifetime, no annuity shall be due or payable to  
25 his or her estate.



1 (c) An individual entitled to annuity from the Fund may  
2 decline to accept all or any part of the annuity by submitting  
3 a signed waiver to the Secretary. The waiver may be re-  
4 voked in writing at any time. Payment of the annuity waived  
5 may not be made for the period during which the waiver was  
6 in effect.

7 (d) Recovery of overpayments under this chapter may  
8 not be made from an individual when, in the judgment of the  
9 Secretary, the individual is without fault and recovery would  
10 be against equity and good conscience or administratively  
11 infeasible.

12 SEC. 831. RETIREMENT FOR DISABILITY OR INCA-  
13 PACITY.—(a) Any participant who has five years of service  
14 credit toward retirement under the System, excluding mili-  
15 tary or naval service, and who becomes totally disabled or  
16 incapacitated for useful and efficient service by reason of dis-  
17 ease, illness, or injury (not due to the participant's vicious  
18 habits, intemperance, or willful conduct), shall, upon his or  
19 her own application or upon order of the Secretary, be retired  
20 on an annuity computed as prescribed in section 821. If the  
21 disabled or incapacitated participant has less than twenty  
22 years of service credit toward retirement under the System at  
23 the time of retirement, his or her annuity shall be computed  
24 on the assumption that the participant has had twenty years  
25 of service, but the additional service credit that may accrue

1 to a participant under this subsection shall in no case exceed  
2 the difference between his or her age at the time of retire-  
3 ment and age sixty.

4 (b) In each case, the participant shall be given a physi-  
5 cal examination by one or more duly qualified physicians or  
6 surgeons designated by the Secretary to conduct examina-  
7 tions. Disability shall be determined by the Secretary on the  
8 basis of the advice of such physicians or surgeons. Unless the  
9 disability is permanent, like examinations shall be made an-  
10 nually until the annuitant has reached age sixty. If the Secre-  
11 tary determines on the basis of the advice of one or more  
12 duly qualified physicians or surgeons conducting such exami-  
13 nations that an annuitant has recovered to the extent that he  
14 or she can return to duty, the annuitant may apply for rein-  
15 statement or reappointment in the Service within one year  
16 from the date recovery is determined. Upon application the  
17 Secretary shall reinstate such recovered disability annuitant  
18 in the class in which the annuitant was serving at time of  
19 retirement, or the Secretary may, taking into consideration  
20 the age, qualifications, and experience of such annuitant, and  
21 the present class of his or her contemporaries in the Service,  
22 appoint or recommend that the President appoint the annu-  
23 itant to a higher class. Payment of the annuity shall continue  
24 until a date six months after the date of the examination  
25 showing recovery or until the date of reinstatement or reap-

1 pointment in the Service, whichever is earlier. Fees for ex-  
2 aminations under this section together with reasonable trav-  
3 eling and other expenses incurred in order to submit to exam-  
4 ination, shall be paid out of the Fund. If the annuitant fails to  
5 submit to examination as required under this subsection, pay-  
6 ment of the annuity shall be suspended until continuance of  
7 the disability is satisfactorily established.

8 (c) If a recovered disability annuitant whose annuity is  
9 discontinued is for any reason not reinstated or reappointed  
10 in the Service, he or she shall be considered to have been  
11 separated within the meaning of section 834 as of the date of  
12 retirement for disability and shall, after the discontinuance of  
13 the disability annuity, be entitled to the benefit of that section  
14 or of section 841 except that he or she may elect voluntary  
15 retirement if eligible under section 835.

16 (d) No participant shall be entitled to receive an annuity  
17 under this Act and compensation for injury or disability to  
18 himself or herself under subchapter I of chapter 81 of title 5,  
19 United States Code, covering the same period of time, except  
20 that a participant may simultaneously receive both an annu-  
21 ity under this section and scheduled disability payments  
22 under section 8107 of title 5, United States Code. This sub-  
23 section shall not bar the right of any claimant to the greater  
24 benefit conferred by either this Act or such subchapter for  
25 any part of the same period of time. Neither this subsection

1 nor any provision of such subchapter shall be so construed as  
2 to deny the right of any participant to receive an annuity  
3 under this Act and to receive concurrently any payment  
4 under such subchapter by reason of the death of any other  
5 person.

6 (e) Notwithstanding any other law, the right of any  
7 person entitled to an annuity under this Act shall not be af-  
8 fected because such person has received an award of compen-  
9 sation in a lump sum under section 8135 of title 5, United  
10 States Code, except that where such annuity is payable on  
11 account of the same disability for which compensation under  
12 such section has been paid, so much of such compensation as  
13 has been paid for any period extended beyond the date such  
14 annuity becomes effective, as determined by the Secretary of  
15 Labor, shall be refunded to the Department of Labor, to be  
16 paid into the Federal Employees' Compensation Fund.  
17 Before such person shall receive such annuity he or she  
18 shall—

19 (1) refund to the Department of Labor the amount  
20 representing such commuted payments for such  
21 extended period, or

22 (2) authorize the deduction of such amount from  
23 the annuity payable under this Act, which amount  
24 shall be transmitted to the Department of Labor for re-  
25 imbursement to such Fund. (Deductions from such

1 annuity may be made from accrued and accruing  
2 payments, or may be prorated against and paid from  
3 accruing payments in such manner as the Secretary of  
4 Labor shall determine, whenever he or she finds that  
5 the financial circumstances of the annuitant are such as  
6 to warrant deferred refunding.)

7 (f) A claim may be allowed under this section only if the  
8 application is filed with the Secretary before the participant is  
9 separated from the Service or within one year thereafter.  
10 This time limitation may be waived by the Secretary for a  
11 participant who at the date of separation from the Service or  
12 within one year thereafter is mentally incompetent, if the ap-  
13 plication is filed with the Secretary within one year from the  
14 date of restoration of the participant to competency or the  
15 appointment of a fiduciary, whichever is earlier.

16 SEC. 832. DEATH IN SERVICE.—(a) If a participant  
17 dies and no claim for annuity is payable under this Act, the  
18 lump-sum credit shall be paid in accordance with section 841.

19 (b) If a participant who has at least eighteen months of  
20 civilian service credit toward retirement under the System  
21 dies before separation or retirement from the Service and is  
22 survived by a spouse, such surviving spouse shall be entitled  
23 to an annuity equal to 55 per centum of the annuity comput-  
24 ed in accordance with subsection (e) of this section and sec-  
25 tion 821(a). If the participant had less than three years

1 creditable civilian service at the time of death, the survivor  
2 annuity shall be computed on the basis of the average salary  
3 for the entire period of such service.

4 (c) If a participant who has at least eighteen months of  
5 civilian service credit toward retirement under the System  
6 dies before separation or retirement from the Service and is  
7 survived by a spouse and a child or children, each surviving  
8 child shall be entitled to an annuity computed in accordance  
9 with subsections (c)(1) and (d) of section 821.

10 (d) If a participant who has at least eighteen months of  
11 civilian service credit toward retirement under the System  
12 dies before separation or retirement from the Service and is  
13 not survived by a spouse, but by a child or children, each  
14 surviving child shall be entitled to an annuity computed in  
15 accordance with subsections (c)(2) and (d) of section 821.

16 (e) If, at the time of his or her death, the participant had  
17 less than twenty years of service credit toward retirement  
18 under the System, the annuity payable in accordance with  
19 subsection (b) shall be computed in accordance with section  
20 821 on the assumption he or she has had twenty years of  
21 service, but the additional service credit that may accrue to a  
22 deceased participant under this subsection shall in no case  
23 exceed the difference between his or her age on the date of  
24 death and age sixty. In all cases arising under subsection (b),

1 (c), (d), or (e), it shall be assumed that the deceased partici-  
2 pant was qualified for retirement on the date of death.

3 (f) If an annuitant who elected a reduced annuity dies in  
4 service after being recalled under section 324 and is survived  
5 by a spouse entitled to a survivor annuity based on such an  
6 election, such survivor annuity shall be computed as if the  
7 recall service had otherwise terminated on the day of death  
8 and the deceased's annuity had been resumed in accordance  
9 with section 871. If such death occurs after the annuitant  
10 had completed sufficient recall service to attain eligibility for  
11 a supplemental annuity, a surviving spouse, shall be entitled  
12 to elect, in addition to any other benefits and in lieu of a  
13 refund of retirement contributions made during the recall  
14 service, a supplemental survivor annuity computed and paid  
15 under section 821(i) as if the recall service had otherwise  
16 terminated. If the annuitant had completed sufficient recall  
17 service to attain eligibility to have his or her annuity deter-  
18 mined anew, a surviving spouse may elect, in lieu of any  
19 other survivor benefit under this chapter, to have the annu-  
20 itant's rights redetermined and to receive a survivor annuity  
21 computed under subsection (b) on the basis of the annuitant's  
22 total service.

23 (g) Annuities that become payable under this section  
24 shall commence, terminate, and be resumed in accordance

1 with subsection (b)(2), (e), or (h) of section 821, as appropri-  
2 ate.

3 SEC. 834. DISCONTINUED SERVICE RETIREMENT.—

4 Any participant who voluntarily separates from the Service  
5 after obtaining at least five years of service credit toward  
6 retirement under the System, excluding military or naval  
7 service, may upon separation from the Service or at any time  
8 prior to becoming eligible for an annuity elect to have his or  
9 her contributions to the Fund returned in accordance with  
10 section 841, or to leave his or her contributions in the Fund  
11 and receive an annuity, computed as prescribed in section  
12 821, commencing at age sixty.

13 SEC. 835. VOLUNTARY RETIREMENT.—Any partici-  
14 pant who is at least fifty years of age and has rendered  
15 twenty years of creditable service, including service within  
16 the meaning of section 853, may on his or her own applica-  
17 tion and with the consent of the Secretary be retired from the  
18 Service and receive retirement benefits in accordance with  
19 section 821.

20 SEC. 836. MANDATORY RETIREMENT.—(a) Except as  
21 provided in subsection (b), any participant shall be retired  
22 from the Service at the end of the month in which the partici-  
23 pant reaches age sixty, and shall receive retirement benefits  
24 in accordance with section 821.



1 (b) Any participant who reaches age sixty while occupy-  
2 ing a position to which he or she was appointed by the Presi-  
3 dent, by and with the advice and consent of the Senate, may  
4 continue to serve until that appointment is terminated. In  
5 addition, whenever the Secretary shall determine it to be in  
6 the public interest, any participant who has reached age sixty  
7 may be retained on active service for a period not to exceed  
8 five years. Any participant who completes a period of service  
9 after reaching age sixty as authorized by this subsection shall  
10 be retired at the end of the month in which such authorized  
11 service is completed.

12 SEC. 837. RETIREMENT OF FORMER PRESIDENTIAL  
13 APPOINTEES.—If a member of the Service who is a partici-  
14 pant in the Foreign Service Retirement and Disability  
15 System completes an assignment under section 302(b) in a  
16 position to which he or she was appointed by the President,  
17 and if within three months of the termination of such assign-  
18 ment (plus any period of authorized leave) has not been reas-  
19 signed, the member shall be retired from the Service and  
20 receive retirement benefits in accordance with section 821.

21 SEC. 841. LUMP-SUM PAYMENTS.—(a) Whenever a  
22 participant becomes separated from the Service without be-  
23 coming eligible for an annuity or a deferred annuity under  
24 this chapter, a lump-sum credit shall be paid to the partici-  
25 pant.

1       (b) Whenever an annuitant becomes separated from the  
2 Service following a period of recall service without becoming  
3 eligible for a supplemental or recomputed annuity under sec-  
4 tion 871, the annuitant's compulsory contributions to the  
5 Fund for such service, together with any special contribu-  
6 tions the annuitant may have made for other service per-  
7 formed after the date of separation from the Service which  
8 forms the basis for annuity, shall be returned.

9       (c) If all annuity rights under this chapter based on the  
10 service of a deceased participant or annuitant terminate  
11 before the total annuity paid equals the lump-sum credit, the  
12 difference shall be paid in the order of precedence shown in  
13 subsection (f).

14       (d) If a participant or former participant dies and is not  
15 survived by a person eligible for an annuity under this chap-  
16 ter or by such a person or persons all of whose annuity rights  
17 terminate before a claim for survivor annuity is filed, the  
18 lump-sum credit shall be paid in accordance with sub-  
19 section (f).

20       (e) If an annuitant who was a former participant dies,  
21 annuity accrued and unpaid shall be paid in accordance with  
22 subsection (f).

23       (f) Payments authorized in subsections (c) through (e)  
24 shall be paid in the following order of precedence to such  
25 person or persons surviving the participant and alive on the

1 date entitlement to the payment arises, upon the establish-  
2 ment of a valid claim therefor, and such payment shall be a  
3 bar to recovery by any other person—

4 (1) to the beneficiary or beneficiaries last design-  
5 nated by the participant before or after retirement in a  
6 signed and witnessed writing received by the Secretary  
7 prior to the participant's death, for which purpose a  
8 designation, change, or cancellation of beneficiary in a  
9 will or other document not so executed and filed shall  
10 have no force or effect;

11 (2) if there be no such beneficiary, to the surviv-  
12 ing wife or husband of such participant;

13 (3) if none of the above, to the child (without  
14 regard to the definition in section 804(2)) or children of  
15 such participant (including adopted and natural children  
16 but not stepchildren) and descendants of deceased chil-  
17 dren by representation;

18 (4) if none of the above, to the parents of such  
19 participant or the survivor of them;

20 (5) if none of the above, to the duly appointed ex-  
21 ecutor or administrator of the estate of such participant  
22 or the survivor of them;

23 (6) if none of the above, to other next of kin of  
24 such participant as may be determined in the judgment  
25 of the Secretary to be legally entitled thereto, except

1       that no payment shall be made under this paragraph  
2       until after the expiration of thirty days from the death  
3       of the participant or annuitant.

4       (g) Annuity accrued and unpaid on the death of a survi-  
5 vor annuitant shall be paid in the following order of prece-  
6 dence, and the payment bars recovery by any other person:  
7 first, to the duly appointed executor or administrator of the  
8 estate of the survivor annuitant; second, if there is no such  
9 executor or administrator, to such person as may be deter-  
10 mined by the Secretary (after the expiration of thirty days  
11 from the date of death of such survivor annuitant) to be enti-  
12 tled under the laws of the survivor annuitant's domicile at the  
13 time of death.

14       (h) Amounts deducted and withheld from basic salary of  
15 a participant under section 811 from the beginning of the first  
16 pay period after the participant has completed thirty-five  
17 years of service computed under section 851, but excluding  
18 service credit for unused sick leave under section 851(b), to-  
19 gether with interest on the amounts at the rate of 3 per  
20 centum a year compounded annually from the date of the  
21 deduction to the date of retirement or death, shall be applied  
22 toward any special contribution due under section 811(d), and  
23 any balance not so required shall be refunded in a lump sum  
24 to the participant after separation or, in the event of a death

1 in service, to a beneficiary in the order of precedence speci-  
2 fied in subsection (f).

3 SEC. 851. CREDITABLE SERVICE.—(a) Except as oth-  
4 erwise specified by law, all periods of civilian and military  
5 and naval service and all other periods through the date of a  
6 participant's final separation from the Service that the Secre-  
7 tary determines would be creditable toward retirement under  
8 the Civil Service Retirement and Disability System (5 U.S.C.  
9 8322), shall be creditable for purposes of this chapter. Con-  
10 versely, any such service performed after December 31,  
11 1976, that would not be creditable under specified conditions  
12 under section 8332 of title 5, United States Code, shall be  
13 excluded under this chapter under the same conditions.

14 (b) In computing any annuity under this chapter, the  
15 total service of a participant who retires on an immediate  
16 annuity or who dies leaving a survivor or survivors entitled  
17 to annuity includes, without regard to the thirty-five-year  
18 limitation imposed by section 821(a), the days of unused sick  
19 leave to the participant's credit, except that these days will  
20 not be counted in determining average basic salary or annuity  
21 eligibility under this chapter. A contribution to the Fund shall  
22 not be required from a participant for this service credit.

23 (c)(1) A participant who enters on approved leave with-  
24 out pay to serve as a full-time officer or employee of an orga-  
25 nization composed primarily of Government employees may,

1 within sixty days after entering on that leave without pay,  
2 file with the employing agency an election to receive full  
3 retirement credit for such periods of leave without pay and  
4 arrange to pay concurrently into the Fund through the em-  
5 ploying agency, amounts equal to the retirement deductions  
6 and agency contributions on the Foreign Service salary rate  
7 that would be applicable if the participant were in a pay  
8 status. If the election and all payments provided by this sub-  
9 section are not made for the periods of such leave without  
10 pay occurring after November 7, 1976, the participant may  
11 not receive any credit for such periods of leave without pay  
12 occurring after such date.

13       (2) A participant may make a special contribution for  
14 any period or periods of approved leave without pay while  
15 serving, before November 7, 1976, as a full-time officer or  
16 employee of an organization composed primarily of Govern-  
17 ment employees. Any such contribution shall be based upon  
18 the suspended Foreign Service salary rate, and shall be com-  
19 puted in accordance with section 811. A participant who  
20 makes such contributions shall be allowed full retirement  
21 credit for the period or periods of leave without pay. If this  
22 contribution is not made, up to six months' retirement credit  
23 shall be allowed for such periods of leave without pay each  
24 calendar year.

1 (d) A participant who has received a refund of retire-  
2 ment contributions (which has not been repaid) under this or  
3 any other retirement system for Government employees cov-  
4 ering service which may be creditable may make a special  
5 contribution for such service under section 811. Credit may  
6 not be allowed for service covered by the refund unless the  
7 special contribution is made.

8 (e) No credit in annuity computation shall be allowed for  
9 any period of civilian service for which a participant made  
10 retirement contributions to another retirement system for  
11 Government employees unless—

12 (1) the right to any annuity under the other  
13 system which is based on such service is waived, and

14 (2) a special contribution is made under section  
15 811 covering such service.

16 (f) A participant who during a period of war, or national  
17 emergency proclaimed by the President or declared by the  
18 Congress, leaves the Service to enter the military service is  
19 deemed, for the purpose of this chapter, as not separated  
20 from the Service unless the participant applies for and re-  
21 ceives a lump-sum payment under section 841. However, the  
22 participant is deemed to be separated from the Service after  
23 the expiration of five years of such military service.

24 (g)(1) An annuity or survivor annuity based on the serv-  
25 ice of a participant of Japanese ancestry who would be eligi-

1 ble under section 8332(1) of title 5, United States Code, for  
2 credit for civilian service for periods of internment during  
3 World War II shall, upon application to the Secretary, be  
4 recomputed to give credit for that service. Any such recom-  
5 putation of an annuity shall apply with respect to months  
6 beginning more than thirty days after the date on which ap-  
7 plication for such recomputation is received by the Secretary.

8 (2) The Secretary shall take such action as may be nec-  
9 essary and appropriate to inform individuals entitled to have  
10 any service credited or annuity recomputed under this sub-  
11 section, of their entitlement to such credit or recomputation.

12 (3) The Secretary shall, on request, assist any individual  
13 referred to in paragraph (1) in obtaining from any agency or  
14 other instrumentality of the United States information neces-  
15 sary to verify the entitlement of the individual to have any  
16 service credited or any annuity recomputed under this sub-  
17 section.

18 (4) Any agency or other instrumentality of the United  
19 States shall, upon request, furnish to the Secretary any infor-  
20 mation it possesses with respect to the internment or other  
21 detention, as described in section 8332(1) of title 5, United  
22 States Code, of any participant.

23 (h) A participant who, while on approved leave without  
24 pay, serves as a full-time paid employee of a Member or  
25 office of the Congress of the United States shall continue to



1 make contributions to the Fund based upon the Foreign  
2 Service salary rate that would be in effect if the participant  
3 were in a pay status. The participant's employing office in  
4 the Congress shall make a matching contribution (from the  
5 appropriation or fund which is used for payment of the par-  
6 ticipant's salary) to the Treasury of the United States to the  
7 credit of the Fund. All periods of service for which full contri-  
8 butions to the Fund are made pursuant to this subsection  
9 shall be counted as creditable service for purposes of this  
10 chapter and shall not, unless all retirement credit is trans-  
11 ferred, be counted as creditable service under any other Fed-  
12 eral staff retirement system.

13 SEC. 853. EXTRA CREDIT FOR SERVICE AT UN-  
14 HEALTHFUL POSTS.—The Secretary may from time to time  
15 establish a list of places which by reason of climatic or other  
16 extreme conditions are to be classed as unhealthful posts.  
17 Each year of duty at such posts, inclusive of regular leaves of  
18 absence, shall be counted as one year and a half in computing  
19 the length of a participant's service for the purpose of retire-  
20 ment, fractional months being considered as full months in  
21 computing such service. No such extra credit for service at  
22 such unhealthful posts shall be credited to any participant  
23 who shall have been paid a differential under section 5925 of  
24 title 5, United States Code, for such service.

1        SEC. 861. ESTIMATE OF APPROPRIATIONS  
2        NEEDED.—The Secretary of the Treasury shall prepare the  
3        estimates of the annual appropriations required to be made to  
4        the Fund, and shall make actuarial valuations of such funds  
5        at intervals of not more than five years. The Secretary of  
6        State may expend from money to the credit of the Fund an  
7        amount not exceeding \$5,000 per year for the incidental ex-  
8        penses necessary in administering the provisions of this chap-  
9        ter, including actuarial advice.

10       SEC. 863. INVESTMENT OF FUND.—The Secretary of  
11       the Treasury shall invest from time to time in interest-bear-  
12       ing securities of the United States such portions of the Fund  
13       as in his or her judgment may not be immediately required  
14       for the payment of annuities, cash benefits, refunds, and  
15       allowances. The income derived from such investments shall  
16       constitute a part of the Fund.

17       SEC. 864. ATTACHMENT OF MONEYS.—(a) An individ-  
18       ual entitled to an annuity from the Fund may make allot-  
19       ments or assignments of amounts from such annuity for such  
20       purposes as the Secretary in his or her sole discretion consid-  
21       ers appropriate.

22       (b)(1) Payments under this chapter which would other-  
23       wise be made to a participant or annuitant based upon his or  
24       her service shall be paid (in whole or in part) by the Secre-  
25       tary to another person to the extent expressly provided for in

1 the terms of any court decree of divorce, annulment, or legal  
2 separation, or the terms of any court order or court-approved  
3 property settlement agreement incident to any court decree  
4 of divorce, annulment, or legal separation. Any payment  
5 under this paragraph to a person bars recovery by any other  
6 person.

7 (2) Paragraph (1) shall apply only to payments made  
8 under this chapter after the date of receipt by the Secretary  
9 of written notice of such decree, order, or agreement, and  
10 such additional information and documentation as the Secre-  
11 tary may require.

12 (3) As used in this subsection "court" means any court  
13 of any State or the District of Columbia.

14 (c) None of the moneys mentioned in this chapter shall  
15 be assignable either in law or equity, except under subsection  
16 (a) or (b) of this section or under section 643(c), or subject to  
17 execution, levy, attachment, garnishment, or other legal  
18 process, except as otherwise may be provided by Federal  
19 law.

20 SEC. 865. PAYMENTS FOR FUTURE BENEFITS.—(a)  
21 Any statute which authorizes—

22 (1) new or liberalized benefits payable from the  
23 Fund, including annuity increases other than under  
24 section 882;

1           (2) extension of the benefits of the System to new  
2       groups of employees; or

3           (3) increases in salary on which benefits are com-  
4       puted;

5 is deemed to authorize appropriations to the Fund to finance  
6 the unfunded liability created by that statute, in thirty equal  
7 annual installments with interest computed at the rate used  
8 in the then most recent valuation of the System and with the  
9 first payment thereof due as of the end of the fiscal year in  
10 which each new or liberalized benefit, extension of benefits or  
11 increase in salary is effective.

12       (b) There is authorized to be appropriated to the Fund  
13 for each fiscal year an amount equal to the amount of the  
14 Foreign Service normal cost for that year which is not met  
15 by contributions to the Fund under section 811(a).

16       SEC. 866. UNFUNDED LIABILITY OBLIGATIONS.—(a)  
17 At the end of each fiscal year, the Secretary shall notify the  
18 Secretary of the Treasury of the amount equivalent to—

19           (1) interest on the unfunded liability computed for  
20       that year at the interest rate used in the then most  
21       recent valuation of the System, and

22           (2) that portion of disbursement for annuities for  
23       that year which the Secretary estimates is attributable  
24       to credit allowed for military service.

1 (b) Before closing the accounts for each fiscal year, the  
2 Secretary of the Treasury shall credit such amounts to the  
3 Fund, as a Government contribution, out of any money in the  
4 Treasury of the United States not otherwise appropriated.

5 (c) Requests for appropriations to the Fund under sec-  
6 tion 865(b) shall include reports to the Congress on the sums  
7 credited to the Fund under this section.

8 SEC. 871. ANNUITY ADJUSTMENT FOR RECALL SERV-  
9 ICE.—(a) Any annuitant recalled to duty in the Service under  
10 section 324 shall, while so serving, be entitled in lieu of an-  
11 nuity to the full salary of the class in which serving. During  
12 such service the recalled annuitant shall make contributions  
13 to the Fund in accordance with section 811. On the day fol-  
14 lowing termination of the recall service, the former annuity  
15 shall be resumed, adjusted by any cost-of-living increases  
16 under section 882 that became effective during the recall  
17 period.

18 (b) If the recall service lasts less than one year, the  
19 annuitant's contributions to the Fund during recall service  
20 shall be refunded in accordance with section 841. If the recall  
21 service lasts more than one year, the annuitant may, in lieu  
22 of such refund, elect a supplemental annuity computed under  
23 section 821 on the basis of service credit and average salary  
24 earned during the recall period irrespective of the number of  
25 years of service credit previously earned. If the recall service

1 continues for at least five years, the annuitant may elect to  
2 have his or her annuity determined anew under section 821  
3 in lieu of any other benefits under this section. Any annuitant  
4 who is recalled under section 324 may upon written applica-  
5 tion count as recall service any prior service that is creditable  
6 under section 851 that was performed after the separation  
7 upon which his or her annuity is based.

8       SEC. 872. REEMPLOYMENT.—(a) Notwithstanding any  
9 other law, any member of the Service who has retired and is  
10 receiving an annuity under this chapter, and who is reem-  
11 ployed in the Government service in any part-time or full-  
12 time appointive position, shall be entitled to receive the  
13 salary of the position in which he or she is serving plus so  
14 much of the annuity payable under this chapter which when  
15 combined with such salary does not exceed during any calen-  
16 dar year the basic salary the member was entitled to receive  
17 under this Act on the date of retirement from the Service.  
18 Any such reemployed member of the Service who receives  
19 salary during any calendar year in excess of the maximum  
20 amount which he or she may be entitled to receive under this  
21 subsection shall be entitled to such salary in lieu of benefits  
22 under this chapter.  
23       (b) When any such retired member of the Service is  
24 reemployed, the employer shall send a notice to the Depart-  
25 ment of such reemployment, together with all pertinent infor-

1 mation relating thereto, and shall pay directly to such  
2 member the salary of the position in which he or she is  
3 serving.

4 (c) In the event of any overpayment under this section,  
5 such overpayment shall be recovered by withholding the  
6 amount involved from the salary payable to such reemployed  
7 member of the Service or from any other moneys, including  
8 annuity payments, payable under this chapter.

9 SEC. 881. VOLUNTARY CONTRIBUTIONS.—(a) The vol-  
10 untary contribution account shall be the sum of unrefunded  
11 amounts heretofore voluntarily contributed by any participant  
12 or former participant under any prior law authorizing such  
13 contributions to the Fund, plus interest compounded at the  
14 rate of 3 per centum per year to date of separation from the  
15 Service or in case of participant or former participant sepa-  
16 rated with entitlement to a deferred annuity to the date the  
17 voluntary contribution account is claimed, or to the com-  
18 mencing date fixed for the deferred annuity or to the date of  
19 death, whichever is earlier. Effective on the date the partici-  
20 pant becomes eligible for an annuity or a deferred annuity  
21 and at the participant's election, his or her account shall  
22 be—

- 23 (1) returned in a lump sum; or  
24 (2) used to purchase an additional life annuity; or

1           (3) used to purchase an additional life annuity for  
2           the participant and to provide for a cash payment on  
3           his or her death to a beneficiary whose name shall be  
4           notified in writing to the Secretary by the participant;  
5           or

6           (4) used to purchase an additional life annuity for  
7           the participant and a life annuity commencing on his or  
8           her death payable to a beneficiary whose name shall be  
9           notified in writing to the Secretary by the participant  
10          with a guaranteed return to the beneficiary or his or her  
11          legal representative of an amount equal to the cash  
12          payment referred to in paragraph (3).

13          (b) The benefits provided by subsection (a) (2), (3), or (4)  
14          shall be actuarially equivalent in value to the payment pro-  
15          vided for by subsection (a)(1) and shall be calculated upon  
16          such tables of mortality as may be from time to time  
17          prescribed for this purpose by the Secretary of the Treasury.

18          (c) A voluntary contribution account shall be paid in a  
19          lump sum following receipt of an application therefor from a  
20          present or former participant if application is filed prior to  
21          payment of any additional annuity. If not sooner paid, the  
22          account shall be paid at such time as the participant sepa-  
23          rates from the Service for any reason without entitlement to  
24          an annuity or a deferred annuity, or at such time as a former  
25          participant dies or withdraws compulsory contributions to the



1 Fund. In case of death, the account shall be paid in the order  
2 of precedence specified in section 841(g).

3 SEC. 882. COST-OF-LIVING ADJUSTMENTS OF ANNU-  
4 ITIES.—(a) A cost-of-living annuity increase shall become  
5 effective under this section on the effective date of each such  
6 increase under section 8340(b) of title 5, United States Code.  
7 Each such increase shall be applied to each annuity payable  
8 from the Fund which has a commencing date not later than  
9 the effective date of the increase.

10 (b) Each annuity increase under this section shall be  
11 identical to the corresponding percentage increase under  
12 section 8340(b) of title 5, United States Code.

13 (c) Eligibility for an annuity increase under this section  
14 shall be governed by the commencing date of each annuity  
15 payable from the Fund as of the effective date of an increase  
16 except as follows:

17 (1) An annuity (except a deferred annuity) payable  
18 from the Fund to a participant who retires and re-  
19 ceives an immediate annuity, or to a surviving spouse  
20 of a deceased participant who dies in service or who  
21 dies after being separated with benefits under section  
22 643(b)(2), which has a commencing date after the  
23 effective date of the then last preceding general annu-  
24 ity increase under this section shall not be less than  
25 the annuity which would have been payable if the com-

1       mencing date of such annuity had been the effective  
2       date of such last preceding increase. In the administra-  
3       tion of this paragraph, the number of days of unused  
4       sick leave to a participant's or deceased participant's  
5       credit on the effective date of the then last preceding  
6       general annuity increase under this section shall be  
7       deemed to be equal to the number of days of unused  
8       sick leave to his or her credit on the day of separation  
9       from the Service.

10       (2) Effective from its commencing date, an annu-  
11       ity payable from the Fund to an annuitant's survivor,  
12       except a child entitled under section 821(c) or 832 (c)  
13       or (d), shall be increased by the total percentage in-  
14       crease the annuitant was receiving under this section  
15       at death.

16       (3) For purposes of computing or recomputing an  
17       annuity to a child under section 821 (c) or (d) or 832  
18       (c) or (d), the items \$900, \$1,080, \$2,700, and \$3,240  
19       appearing in section 821(c) shall be increased by the  
20       total percentage increases by which corresponding  
21       amounts are being increased under section 8340 of title  
22       5, United States Code, on the date the child's annuity  
23       becomes effective.

1 (d) No increase in annuity provided by this section shall  
2 be computed on any additional annuity purchased at retire-  
3 ment by voluntary contributions.

4 (e) The monthly installment of annuity after adjustment  
5 under this section shall be fixed at the nearest dollar, except  
6 such installment shall after adjustment reflect an increase of  
7 at least \$1.

8 (f) Effective from its commencing date, there shall be an  
9 increase of 10 per centum in the annuity of each surviving  
10 spouse whose entitlement to annuity resulted from the death  
11 of an annuitant who, prior to October 1, 1976, elected a  
12 reduced annuity in order to provide a spouse's survivor  
13 annuity.

14 CHAPTER 9—TRAVEL, LEAVE, AND OTHER BENEFITS

15 SEC. 901. TRAVEL AND RELATED EXPENSES.—The  
16 Secretary may pay the travel and related expenses of mem-  
17 bers of the Service and their families, including costs or ex-  
18 penses incurred for—

19 (1) proceeding to and returning from assigned  
20 posts of duty;

21 (2) authorized home leave;

22 (3) family members to accompany, precede, or  
23 follow a member of the Service to a place of temporary  
24 duty while a member or family member is en route to  
25 or from a post of assignment;

1           (4) representational travel within a member's  
2 country of assignment or, when not more than one  
3 family member participates, outside the country of  
4 assignment;

5           (5) obtaining necessary medical care for an illness,  
6 injury, or medical condition while abroad in a locality  
7 where there is no suitable person or facility to provide  
8 such care, without regard to those laws and regula-  
9 tions limiting or restricting the furnishing or payment  
10 of transportation and traveling expenses, including  
11 expenses for—

12           (A) an attendant or attendants for a member  
13 or family member who is too ill to travel unat-  
14 tended or is a family member too young to travel  
15 alone, and

16           (B) a family member incapable of caring for  
17 himself or herself if he or she remained at post;

18           (6) rest and recuperation travel of United States  
19 citizen members of the Service, and members of their  
20 families, while serving at posts specifically designated  
21 by the Secretary for purposes of this paragraph, to—

22           (A) other locations abroad having different  
23 social, climatic, or other environmental conditions  
24 than those at the post at which such personnel  
25 are serving, or

1 (B) to locations in the United States:

2 *Provided*, That unless the Secretary otherwise specifies  
3 in extraordinary circumstances such travel expenses  
4 shall be limited to the cost for a member of the Service  
5 and the member's family of one round trip during any  
6 continuous two-year tour unbroken by home leave, and  
7 two round trips during any continuous three-year tour  
8 unbroken by home leave;

9 (7) removal of the members of the family of a  
10 member of the Service, and the member's furniture and  
11 household and personal effects (including automobiles),  
12 from a post where there is imminent danger because of  
13 the prevalence of disturbed conditions, and the return  
14 of such persons, furniture, and effects to such post  
15 upon the cessation of such conditions, or to such other  
16 post as may in the meantime have become the post to  
17 which the member of the Service has been reassigned;

18 (8) up to two round trips each year by members  
19 of the Service for purposes of family visitation in situa-  
20 tions where the member's family is prevented by offi-  
21 cial order from accompanying the member to, or has  
22 been ordered from, the member's assigned post because  
23 of imminent danger due to the prevalence of disturbed  
24 conditions, except that, with respect to any such  
25 member whose family is located abroad, the Secretary

1       may authorize such additional trips, as deemed appro-  
2       priate, not to exceed the equivalent cost of two round  
3       trips of less than first class to the District of Columbia;

4               (9) round-trip travel from a post abroad for pur-  
5       poses of family visitation in emergency situations in-  
6       volving personal hardship;

7               (10) preparing and transporting to their designat-  
8       ed homes in the United States or to a place not more  
9       distant, the remains of members of the Service and of  
10      the members of their families who may die abroad or  
11      while in travel status;

12              (11) transporting the furniture and household and  
13      personal effects of a member of the Service to succes-  
14      sive posts of duty and, on the termination of service, to  
15      the place where the member will reside;

16              (12) packing and unpacking, transporting to and  
17      from a place of storage, and storing the furniture and  
18      household and personal effects of a member of the  
19      Service—

20                   (A) when absent from post of assignment  
21                   under orders, or when assigned to a post to which  
22                   the member cannot take or at which the member  
23                   is unable to use such furniture and household and  
24                   personal effects, or when it is in the public inter-  
25                   est or more economical to authorize storage;

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1 (B) in connection with assignment or transfer  
2 to a new post, from the date of departure from his  
3 or her last post or from the date of departure  
4 from the member's place of residence in the case  
5 of a new member and for not to exceed three  
6 months after arrival at the new post, or until the  
7 establishment of residence quarters, whichever  
8 shall be shorter; and

9 (C) in connection with separation of a  
10 member of the Service, the cost of packing and  
11 unpacking, transporting to and from a place of  
12 storage, and storing for a period not to exceed  
13 three months of the member's furniture and  
14 household and personal effects;

15 (13) transporting, notwithstanding any other law,  
16 for or on behalf of a member of the Service, a privately  
17 owned motor vehicle in any case in which the Secre-  
18 tary determines that water, rail, or air transportation  
19 of the motor vehicle is necessary or expedient for all or  
20 any part of the distance between points of origin and  
21 destination: *Provided*, That not more than one motor  
22 vehicle of any such member may be transported under  
23 authority of this paragraph during any four-year  
24 period, while the member is continuously serving

1       abroad, except as a replacement for such motor  
2       vehicle—

3               (A) determined, in advance, by the Secretary  
4               to be necessary for reasons beyond the control of  
5               the member and in the interest of the Govern-  
6               ment, or

7               (B) incident to a transfer when the cost of  
8               transporting the replacement motor vehicle does  
9               not exceed the cost of transporting the motor  
10              vehicle that is replaced;

11             (14) the travel and relocation of members of the  
12             Service, and members of their families, assigned within  
13             the United States, including assignments under sec-  
14             tions 3371 through 3376 of title 5, United States Code  
15             (notwithstanding section 3375(a) of title 5, United  
16             States Code), if an agreement similar to that required  
17             by section 3375(b) of title 5, United States Code, is  
18             executed by the member of the Service.

19       SEC. 902. LOAN OF HOUSEHOLD EFFECTS.—The Sec-  
20       retary may, as a means of eliminating transportation costs,  
21       provide members of the Service with basic household furnish-  
22       ing and equipment for use on a loan basis in personally  
23       owned or leased residences.

24       SEC. 911. REQUIRED LEAVE IN THE UNITED  
25       STATES.—(a) The Secretary may order to the United States



1 on statutory leave of absence any member of the Service who  
2 is a citizen of the United States upon completion of eighteen  
3 months' continuous service abroad and shall so order as soon  
4 as possible after completion of three years of such service.

5 (b) While in the United States for leave of absence, the  
6 service of any member shall be available for such work or  
7 duties in the Department or elsewhere as the Secretary may  
8 prescribe, but the time of such work or duties will not be  
9 counted as leave.

10 SEC. 921. HEALTH CARE.—(a) The Secretary may  
11 establish a health care program to promote and maintain the  
12 physical and mental health of members of the Service, and  
13 (when incident to overseas service) designated eligible per-  
14 sonnel of the Department and other agencies, and members  
15 of their families.

16 (b) Any such health care program may include medical  
17 examinations for applicants for employment and for personnel  
18 of the Department or the Service who are citizens of the  
19 United States, and for members of their families; examina-  
20 tions necessary to establish disability or incapacity of partici-  
21 pants in the Foreign Service Retirement and Disability  
22 System; and inoculations or vaccinations for such personnel  
23 and the members of their families.

24 (c) The Secretary may establish health care facilities  
25 and provide for the services of physicians, nurses, or other

1 health care personnel at posts abroad at which, in the opinion  
2 of the Secretary, sufficient personnel are employed to  
3 warrant such facilities or services.

4 (d) In the event any person eligible for health care under  
5 this section incurs an illness, injury, or medical condition  
6 while abroad which requires hospitalization or similar treat-  
7 ment, the Secretary may pay all or part of the cost of such  
8 treatment. Limitations on such payments established by reg-  
9 ulation may be waived whenever the Secretary determines  
10 that the illness, injury, or medical condition clearly was  
11 caused or materially aggravated by the fact that the person  
12 concerned is or has been located abroad.

13 (e) The Secretary is authorized to provide health care  
14 under this section beyond the date of separation of any eligi-  
15 ble personnel, and to their families beyond the date of death  
16 of such personnel or dissolution of marriage.

17 (f) The Secretary shall review on a continuing basis the  
18 health care program provided for in this section. Whenever  
19 the Secretary determines that all or any part of such program  
20 can be provided for as well and as cheaply in other ways, the  
21 Secretary is authorized for such persons, locations, and con-  
22 ditions as may be deemed appropriate, to contract for health  
23 care pursuant to such arrangements as may be deemed  
24 appropriate.

1        SEC. 931. REPRESENTATION.—Notwithstanding the  
2 provisions of section 5536 of title 5, United States Code, the  
3 Secretary is authorized to provide for official receptions and  
4 entertainment and representational expenses to enable the  
5 Department and the Service to provide for the proper repre-  
6 sentation of the United States and its interests.

7        CHAPTER 10—LABOR-MANAGEMENT RELATIONS

8        SEC. 1001. LABOR-MANAGEMENT POLICY.—The Con-  
9 gress finds—

10            (1) that experience in both private and public em-  
11            ployment indicates that the statutory protection of the  
12            right of employees to organize, bargain collectively,  
13            and participate through labor organizations of their  
14            own choosing in decisions which affect them—

15                    (A) safeguards the public interest,

16                    (B) contributes to the effective conduct of  
17            public business, and

18                    (C) facilitates and encourages the amicable  
19            settlement of disputes between employees and  
20            their employers involving conditions of employ-  
21            ment;

22            (2) that the public interest demands the highest  
23            standards of performance by members of the Service  
24            and the continuous development and implementation of

1 modern and progressive work practices to facilitate  
2 their improved performance and efficiency; and

3 (3) that the unique conditions of Foreign Service  
4 employment require a distinct framework for the devel-  
5 opment and implementation of modern, constructive,  
6 and cooperative relationships between management of-  
7 ficials and organizations representing members of the  
8 Service. Therefore, labor organizations and collective  
9 bargaining in the Service are in the public interest and  
10 are consistent with the requirement of an effective and  
11 efficient Government. The provisions of this chapter  
12 shall be interpreted in a manner consistent with the re-  
13 quirement of an effective and efficient Government.

14 SEC. 1002. DEFINITIONS.—For purposes of this chap-  
15 ter, the term—

16 (1) “Board” means the Foreign Service Labor  
17 Relations Board, established by section 1011;

18 (2) “collective bargaining” means the performance  
19 of the mutual obligation of the management repre-  
20 sentative of the Department and of the exclusive repre-  
21 sentatives of employees to meet at reasonable times  
22 and to consult and bargain in a good-faith effort to  
23 reach agreement with respect to the conditions of em-  
24 ployment affecting employees, and to execute, if  
25 requested by either party, a written document incorpo-

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1 rating any collective-bargaining agreement reached,  
2 but this obligation does not compel either party to  
3 agree to a proposal or to make a concession;

4 (3) "collective-bargaining agreement" means a  
5 signed agreement (which may be of a comprehensive  
6 and long-term nature) entered into as a result of collec-  
7 tive bargaining under this chapter;

8 (4) "conditions of employment" means personnel  
9 policies, practices, and matters within the discretion of  
10 the Secretary affecting working conditions (established  
11 by rule, regulation, or otherwise), except that such  
12 term does not include policies, practices, or matters—

13 (A) relating to the designation or classifica-  
14 tion of any position,

15 (B) relating to prohibited political activities,

16 (C) specifically provided for by Federal  
17 statute,

18 (D) relating to Government-wide or multi-  
19 agency responsibility of the Secretary affecting  
20 agencies other than those to which this chapter  
21 applies;

22 (5) "confidential employee" means an individual  
23 who assists, or otherwise acts in a confidential capacity  
24 to, a management official (except an individual who as-  
25 sists in a purely clerical capacity a management official

1 who is not engaged in the administration of this chap-  
2 ter or in the formulation of the personnel policies and  
3 programs of the Department);

4 (6) "dues" means dues, fees, and assessments;

5 (7) "employee" means—

6 (A) a member of the Service who is a citizen  
7 of the United States, wherever serving, other  
8 than a management official, a confidential em-  
9 ployee, a consular agent or any person who par-  
10 ticipates in a strike in violation of section 7311 of  
11 title 5, United States Code; or

12 (B) a former member of the Service as de-  
13 scribed in subparagraph (A) whose employment  
14 has ceased because of an unfair labor practice  
15 under section 1031 and who has not obtained any  
16 other regular and substantially equivalent employ-  
17 ment, as determined under regulations prescribed  
18 by the Board;

19 (8) "exclusive representative" means any labor  
20 organization which is certified as the exclusive repre-  
21 sentative of employees;

22 (9) "labor organization" means an organization  
23 composed in whole or in part of employees, in which  
24 employees participate and pay dues, and which has as  
25 a primary purpose dealing with the Department con-

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1 cerning grievances and conditions, of employment, but  
2 does not include—

3 (A) an organization which by its constitution,  
4 bylaws, or tacit agreement among its members, or  
5 otherwise, denies membership because of race,  
6 color, creed, national origin, sex, age, political af-  
7 filiation, marital status, or handicapping  
8 conditions;

9 (B) an organization which advocates the  
10 overthrow of the constitutional form of govern-  
11 ment of the United States;

12 (C) an organization sponsored by the Depart-  
13 ment or composed solely of management officials;

14 (D) an organization which participates in the  
15 conduct of a strike, work stoppage, or slowdown,  
16 or which imposes a duty or obligation to conduct,  
17 assist, or participate in such an action;

18 (10) "management official" means an individual  
19 who—

20 (A) is a chief of mission or principal officer;

21 (B) is serving in a position to which appoint-  
22 ed by the President, by and with the advice and  
23 consent of the Senate, or by the President alone;

24 or

1 (C) occupies a position which in the sole  
2 judgment of the Secretary is of comparable impor-  
3 tance to the offices mentioned in paragraph (A) or  
4 (B), above;

5 (D) is serving as a deputy to any of the  
6 above;

7 (E) is assigned as a Foreign Service  
8 inspector; or

9 (F) is engaged in the administration of this  
10 chapter or in the formulation of the personnel  
11 policies and programs of the Department;

12 (11) "Panel" means the Foreign Service Impasse  
13 Disputes Panel, established by section 1014;

14 (12) "person" means an individual, a labor orga-  
15 nization, or an agency.

16 SEC. 1003. APPLICATION.—(a) The President may by  
17 Executive order exclude any subdivision of the Department  
18 from coverage under this chapter if the President determines  
19 that—

20 (1) the subdivision has as a primary function intel-  
21 ligence, counterintelligence, investigative, or national  
22 security work, and

23 (2) the provisions of this chapter cannot be ap-  
24 plied to that subdivision in a manner consistent with  
25 national security requirements and considerations.



1 (b) The Secretary may suspend temporarily any provi-  
2 sion of this chapter with respect to any post, bureau, office,  
3 or activity, in the United States or abroad, when the Secre-  
4 tary determines in writing in emergency situations that such  
5 a temporary suspension is necessary in the national interest.

6 SEC. 1004. EMPLOYEE RIGHTS.—(a) Every employee  
7 has the right to form, join, or assist any labor organization,  
8 or to refrain from any such activity, freely and without fear of  
9 penalty or reprisal. Each employee shall be protected in the  
10 exercise of such right.

11 (b) Except as otherwise provided under this chapter,  
12 such right includes the right—

13 (1) to act for a labor organization in the capacity  
14 of a representative and, in that capacity, to represent  
15 the views of the labor organization to the Secretary  
16 and other officials of the Government, including the  
17 Congress, or other appropriate authorities; and

18 (2) to engage in collective bargaining with respect  
19 to conditions of employment through representatives  
20 chosen by members of the Service under this chapter.

21 SEC. 1005. MANAGEMENT RIGHTS.—(a) Nothing in  
22 this chapter shall affect the authority of the Department, in  
23 accordance with applicable law and regulations—

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1           (1) to determine the mission, budget, organization,  
2           and number of types and classes of employees and in-  
3           ternal security practices of the Department;

4           (2) to hire, promote, assign, direct, lay off and  
5           retain employees, or to suspend or remove, or to take  
6           other disciplinary action against such employees;

7           (3) to assign work, to make determinations with  
8           respect to contracting out, and to determine the per-  
9           sonnel by which the Department's operations shall be  
10          conducted;

11          (4) to fill positions from any appropriate source;

12          (5) to determine the need for uniform personnel  
13          policies and procedures between or among the agencies  
14          to which this chapter applies;

15          (6) to take whatever actions may be necessary to  
16          carry out the Department's mission during emergen-  
17          cies.

18          (b) Subsection (a) shall not preclude the Department and  
19          the exclusive representative from negotiating—

20               (1) at the election of the Department, on the num-  
21               bers, types, and classes of employees or positions as-  
22               signed to any organizational subdivision, work project,  
23               or tour of duty, or on the technology, methods, and  
24               means of performing work;

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1           (2) procedures which management officials of the  
2       Department will observe in exercising their functions;  
3       or

4           (3) appropriate arrangements for employees ad-  
5       versely affected by the exercise of any function under  
6       this section.

7       SEC. 1011. FOREIGN SERVICE LABOR RELATIONS  
8       BOARD.—(a) There is established the Foreign Service Labor  
9       Relations Board. The Board shall be composed of three  
10      members, one of whom shall be the Chairman of the Federal  
11      Labor Relations Authority, who shall chair. The remaining  
12      two members shall be appointed by the Secretary from nomi-  
13      nees approved in writing by the agencies to which this chap-  
14      ter applies, and the exclusive representative (if any) of  
15      employees in each such agency. In the event of inability to  
16      obtain agreement on a nominee, each agency and each exclu-  
17      sive representative whose agreement is required shall select  
18      two nominees and each such agency and exclusive repre-  
19      sentative, in an order determined by lot, shall in turn strike a  
20      name from a list of such nominees until only one remains.  
21      (b) The Chairperson shall serve on the Board while  
22      serving as Chairman of the Federal Labor Relations Authori-  
23      ty. One of the two original members of the Board other than  
24      the Chairperson shall be appointed for a two-year term, and  
25      one for a three-year term. Thereafter, each member other

1 than the Chairperson shall be appointed for a period of three  
2 years. An individual chosen to fill a vacancy shall be appoint-  
3 ed for the unexpired term of the member replaced.

4 (c) A vacancy on the Board shall not impair the right of  
5 the remaining members to exercise the full powers of the  
6 Board. The Chairperson may at any time designate an alter-  
7 nate Chairperson from among the members of the Federal  
8 Labor Relations Authority.

9 (d) The members, other than the Chairperson, may not  
10 be employees of the Government, and shall receive compen-  
11 sation at the daily rate paid an individual at level V of the  
12 Federal Executive Salary Schedule (5 U.S.C. 5316) for each  
13 day they are performing their duties (including traveltime).

14 (e) The Secretary may remove a Board member, other  
15 than the Chairperson, upon written notice, for corruption, ne-  
16 glect of duty, malfeasance, or demonstrated incapacity to  
17 perform his or her functions, established at a hearing, except  
18 where the right to a hearing is waived in writing.

19 (f) The Board may obtain facilities, services, and sup-  
20 plies through the general administrative services of the De-  
21 partment. All expenses of the Board, including travel and  
22 travel-related expenses, shall be paid out of funds appropri-  
23 ated to the Department for obligation and expenditure by the  
24 Board. At the request of the Board, officers and employees of  
25 the Department and members of the Service may be assigned

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1 as staff employees for the Board. Within the limits of appro-  
2 priated funds, the Board may appoint and fix the compensa-  
3 tion of such other employees as the Board considers neces-  
4 sary to carry out its functions.

5 SEC. 1012. FUNCTIONS OF THE BOARD.—(a) The  
6 Board shall—

7 (1) supervise or conduct elections and determine  
8 whether a labor organization has been selected as the  
9 exclusive representative by a majority of employees  
10 who cast valid ballots and administer the provisions of  
11 this chapter relating to, the according of exclusive rec-  
12 ognition to a labor organization;

13 (2) resolve complaints of alleged unfair labor  
14 practices;

15 (3) resolve issues relating to the obligation to  
16 bargain in good faith; and

17 (4) take any action considered necessary to  
18 administer effectively the provisions of this chapter.

19 (b) In the exercise of its responsibilities, the Board shall  
20 give such consideration as it deems appropriate to the deci-  
21 sions of the Federal Labor Relations Authority under section  
22 7105 of title 5, United States Code.

23 (c) In order to carry out its functions under this chapter,  
24 the Board may—

1           (1) adopt regulations concerning its organization,  
2           procedures, and functions under this chapter;

3           (2) conduct appropriate inquiries wherever persons  
4           subject to this chapter are located;

5           (3) hold hearings;

6           (4) administer oaths, take the testimony or deposi-  
7           tion of any person under oath, and issue subpoenas; and

8           (5) require the Department or a labor organization  
9           to cease and desist from violations of this chapter and  
10          require it to take any remedial action it considers ap-  
11          propriate to carry out this chapter.

12          (d) Except as provided in section 518 of title 28, United  
13          States Code, attorneys designated by the Board may appear  
14          for the Board and represent the Board in connection with any  
15          function carried out by the Board under this chapter or as  
16          otherwise authorized by law.

17          (e) The Board shall maintain a file on its proceedings  
18          and copies of all available agreements, and shall publish the  
19          texts of its decisions and the actions taken by the Panel  
20          under section 1014.

21          SEC. 1013. JUDICIAL REVIEW AND ENFORCEMENT OF  
22          BOARD ACTIONS.—(a) Except as provided in section  
23          1024(d), any person aggrieved by a final order of the Board  
24          may, during the sixty-day period beginning on the date on  
25          which the order was issued, institute an action for judicial

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1 review of the Board's order in the United States Court of  
2 Appeals for the District of Columbia, which shall conduct its  
3 review on the same basis as an appeal from a decision of a  
4 district court.

5 (b) The Board may petition the United States Court of  
6 Appeals for the District of Columbia for the enforcement of  
7 any order of the Board and for appropriate temporary relief  
8 or restraining order.

9 (c) Subsection (c) of section 7123 of title 5, United  
10 States Code, shall apply to judicial review and enforcement  
11 of actions by the Board in the same manner that it applies to  
12 such review and enforcement of actions by the Federal Labor  
13 Relations Authority.

14 SEC. 1014. FOREIGN SERVICE IMPASSE DISPUTES  
15 PANEL.—(a) The Foreign Service Impasse Disputes Panel  
16 shall assist in resolving negotiating impasses arising in the  
17 course of collective bargaining under this chapter. The Chair-  
18 person of the Board shall designate the members of the  
19 Panel, who shall include two members of the Foreign Service  
20 (neither of whom shall be a management official, a confiden-  
21 tial employee, or a labor organization official); one repre-  
22 sentative of the Department of Labor; one member of the  
23 Federal Service Impasse Panel; and one public member who  
24 is not an employee of the Government. The Chairperson of

1 the Board shall set the terms of office for Panel members and  
2 determine who shall chair the Panel.

3 (b) Panel members who are not employees of the Gov-  
4 ernment shall receive compensation for each day they are  
5 performing their duties (including traveltime) at the daily rate  
6 paid an individual at grade 18 of the General Schedule  
7 described in section 5104 of title 5, United States Code.

8 (c) Upon the request of either the Department or an  
9 exclusive representative, the Panel shall promptly consider a  
10 negotiation impasse, and shall assist the parties in resolving  
11 the impasse through mediation.

12 (d) If the parties do not arrive at an agreement after  
13 assistance by the Panel under subsection (c), the Panel  
14 may—

15 (1) hold hearings (in the course of which it may  
16 administer oaths, and take the testimony or deposition  
17 of any person under oath); and

18 (2) take whatever action is necessary to resolve  
19 the impasse.

20 (e) Notice of any final action of the Panel under this  
21 section shall be served promptly upon the parties, and shall  
22 be binding during the term of the agreement, unless the par-  
23 ties agree otherwise, or the Secretary finds that the Panel's  
24 action is contrary to the best interests of the Service.



1        SEC. 1021. EXCLUSIVE RECOGNITION.—(a) The De-  
2        partment shall accord exclusive recognition to a labor organi-  
3        zation if the organization has been selected in a secret ballot  
4        election by a majority of the employees who cast valid  
5        ballots.

6        (b) If a petition is filed with the Board by a person—

7                (1) alleging (with the support of thirty percent of  
8        the employees in the unit)—

9                (A) that the employees are not represented  
10              and wish to be represented for the purpose of col-  
11              lective bargaining by an exclusive representative,  
12              or

13              (B) that the exclusive representative is no  
14              longer the representative desired by the majority  
15              of the employees; or

16              (2) seeking clarification of, or an amendment to, a  
17              certification then in effect or a matter relating to  
18              representation;

19        then the Board shall review the petition, and if there is rea-  
20        sonable cause to believe that a question of representation  
21        exists, the Board shall provide an opportunity for a hearing  
22        after reasonable notice. If the Board finds that a question of  
23        representation exists, the Board shall supervise an election  
24        on the question by secret ballot and shall certify the results  
25        thereof. An election under this subsection shall not be con-

1 ducted if, in the preceding twelve calendar months, a valid  
2 election has been held.

3 (c) A labor organization which—

4 (1) has been designated by at least 10 per centum  
5 of the employees; or

6 (2) is the exclusive representative of the  
7 employees involved;

8 may intervene with respect to a petition filed under subsec-  
9 tion (b) and shall be placed on the ballot of any election under  
10 subsection (b) with respect to the petition.

11 (d)(1) The Board shall determine who is eligible to vote  
12 in any election under this section and shall establish rules  
13 governing such election, which shall include rules allowing  
14 employees who are eligible to vote the opportunity to  
15 choose—

16 (A) from any labor organizations on the ballot,  
17 that labor organization which the employees wish to  
18 represent them; or

19 (B) not to be represented by a labor organization.

20 (2) In any election in which more than two choices are  
21 on the ballot, the Board's rules shall provide for preferential  
22 voting. If no choice receives a majority of first preferences,  
23 the Board shall distribute to the two choices having the most  
24 first preferences the preferences as between those two of the  
25 other valid ballots cast. The choice receiving a majority of

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1 preferences shall be declared the winner. A labor organiza-  
2 tion which is declared the winner of the election shall be  
3 certified by the Board as the exclusive representative.

4 (e) A labor organization seeking exclusive recognition  
5 shall submit to the Board and to the Department a roster of  
6 its officers and representatives, a copy of its constitution and  
7 bylaws and a statement of its objectives.

8 (f) Exclusive recognition shall not be accorded to a labor  
9 organization—

10 (1) if the Board determines that the labor organi-  
11 zation is subject to corrupt influence or influences  
12 opposed to democratic principles;

13 (2) in the case of a petition filed under subsection  
14 (b)(1)(A), if there is not credible evidence that at least  
15 thirty percent of the employees wish to be represented  
16 for the purpose of collective bargaining by the labor  
17 organization seeking exclusive recognition; or

18 (3) if a petition is filed within two years of the  
19 date a labor organization has been certified as the ex-  
20 clusive representative.

21 (g) Nothing in this section shall prohibit the waiver of  
22 hearings by stipulation for the purpose of a consent election  
23 in conformity with regulations or decisions of the Board.

1       SEC. 1022. EMPLOYEES REPRESENTED.—The De-  
2   partment shall constitute a single and separate worldwide  
3   bargaining unit, from which there shall be excluded—

4       (1) management officials and confidential em-  
5   ployees;

6       (2) employees engaged in personnel work in other  
7   than a purely clerical capacity; and

8       (3) employees engaged in criminal or national se-  
9   curity investigations or who audit the work of individ-  
10   uals to insure that their functions are discharged  
11   honestly and with integrity.

12      SEC. 1023. REPRESENTATION RIGHTS AND  
13   DUTIES.—(a) A labor organization which has been accorded  
14   exclusive recognition is the exclusive representative of, and is  
15   entitled to act for, and negotiate collective-bargaining agree-  
16   ments covering, all employees in the unit described in section  
17   1022. An exclusive representative is responsible for repre-  
18   senting the interests of all employees in that unit without  
19   discrimination and without regard to labor organization mem-  
20   bership.

21      (b)(1) An exclusive representative shall be given the  
22   opportunity to be represented at—

23       (A) any formal discussion between one or more  
24   representatives of the Department and one or more  
25   employees in the unit (or their representatives), con-

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1 cerning general conditions of employment, including  
2 general personnel policies and practices, unless the  
3 specific application of those conditions to the particular  
4 employees is the sole issue;

5 (B) any examination of an employee by a Depart-  
6 ment representative for purposes of an investigation  
7 if—

8 (i) the employee reasonably believes that the  
9 examination may result in disciplinary action  
10 against the employee, and

11 (ii) the employee requests such representa-  
12 tion.

13 (2) The Department shall annually inform employees of  
14 their rights under paragraph (1)(B).

15 (c) The rights of an exclusive representative under this  
16 section shall not preclude an employee from—

17 (1) being represented by an attorney or other rep-  
18 resentative of the employee's own choosing, other than  
19 the exclusive representative, in any separation for  
20 cause or appeal proceeding; or

21 (2) exercising grievance or appeal rights estab-  
22 lished by law, rule, or regulation.

23 (d) The duty of the Department and the exclusive repre-  
24 sentative to negotiate in good faith shall include the  
25 obligation—

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1           (1) to approach the negotiations with a sincere  
2       resolve to reach a collective-bargaining agreement;

3           (2) to be represented at the negotiations by duly  
4       authorized representatives prepared to discuss and  
5       negotiate on appropriate conditions of employment;

6           (3) to meet at reasonable times and convenient  
7       places as frequently as may be necessary and to avoid  
8       unnecessary delays;

9           (4) for the Department to furnish the exclusive  
10      representative, upon request, and to the extent not  
11      prohibited by law, data (other than information which  
12      constitutes guidance, advice, counsel, or training pro-  
13      vided for management officials or confidential  
14      employees)—

15           (A) which is normally maintained by the De-  
16      partment in the regular course of business, and

17           (B) which is reasonably available and neces-  
18      sary for full and proper discussion, understanding,  
19      and negotiation of subjects within the scope of  
20      bargaining;

21           (5) to negotiate jointly with respect to conditions  
22      of employment applicable to employees in more than  
23      one of the agencies to which this chapter applies, as  
24      determined by such agencies; and

1           (6) if agreement is reached, to execute, upon the  
2       request of either party to the negotiation, a written  
3       document embodying the agreed terms, and to take the  
4       steps necessary to implement the agreement.

5       (e)(1) An agreement between the Department and the  
6       exclusive representative shall be subject to approval by the  
7       Secretary.

8       (2) The Secretary shall approve the agreement within  
9       thirty days after it is executed unless the Secretary finds that  
10      the agreement is inconsistent with an applicable law, order,  
11      or regulation or the requirements of national security or for-  
12      eign policy.

13      (3) Unless the Secretary disapproves the agreement by  
14      making a finding under paragraph (2), the agreement shall  
15      take effect after thirty days from its execution and shall be  
16      binding on the Department and the exclusive representative  
17      subject to all applicable laws, orders, and regulations.

18      (f) The Department shall consult with the exclusive rep-  
19      resentative with respect to multiagency or interagency mat-  
20      ters affecting the rights, benefits, or obligations of employees  
21      which are not subject to collective bargaining solely because  
22      of section 1002(4)(D).

23      SEC. 1024. RESOLUTION OF IMPLEMENTATION DIS-  
24      PUTES.—(a) Any dispute between the Department and the  
25      exclusive representative concerning the effect, interpretation,

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1 or a claim of breach of a collective-bargaining agreement  
2 shall be resolved through procedures negotiated by the De-  
3 partment and the exclusive representative. Any procedures  
4 negotiated under this section shall—

5 (1) be fair and simple,

6 (2) provide for expeditious processing, and

7 (3) include provision for appeal to the Foreign  
8 Service Grievance Board by either party of any dispute  
9 not satisfactorily settled.

10 (b) Either party to an appeal under subsection (a)(3)  
11 may file with the Board an exception to the action of the  
12 Foreign Service Grievance Board to resolve the implementa-  
13 tion dispute. If, upon review, the Board finds that the action  
14 is deficient—

15 (1) because it is contrary to any law, rule, or reg-  
16 ulation; or

17 (2) on other grounds similar to those applied by  
18 the Federal Labor Relations Authority under section  
19 7122 of title 5, United States Code;

20 the Board may take such action and make such recommenda-  
21 tions concerning the Grievance Board action as it considers  
22 necessary, consistent with applicable laws, rules, and regula-  
23 tions.

24 (c) If no exception to a Grievance Board action is filed  
25 under subsection (b) within thirty days after such action is



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1 communicated to the parties, such action shall become final  
2 and binding and shall be implemented by the parties.

3 (d) Resolutions of disputes under this section shall not  
4 be subject to judicial review.

5 SEC. 1031. UNFAIR LABOR PRACTICES.—(a) It shall  
6 be an unfair labor practice for the Department—

7 (1) to interfere with, restrain, or coerce any em-  
8 ployee in the exercise by the employee of any right  
9 under this chapter;

10 (2) to encourage or discourage membership in any  
11 labor organization by discrimination in connection with  
12 hiring, tenure, promotion, or other conditions of em-  
13 ployment;

14 (3) to sponsor, control, or otherwise assist any  
15 labor organization, other than to furnish upon request  
16 customary and routine services and facilities on an im-  
17 partial basis to labor organizations having equivalent  
18 status;

19 (4) to discipline or otherwise discriminate against  
20 an employee because the employee has filed a  
21 complaint or petition, or has given any information,  
22 affidavit, or testimony under this chapter;

23 (5) to refuse to consult or negotiate in good faith  
24 with a labor organization, as required under this  
25 chapter;

1           (6) to fail or refuse to cooperate in impasse proce-  
2           dures and impasse decisions, as required under this  
3           chapter;

4           (7) to enforce any rule or regulation which is in  
5           conflict with an applicable collective-bargaining agree-  
6           ment if the agreement was in effect before the date the  
7           rule or regulation was prescribed; or

8           (8) to fail or refuse otherwise to comply with any  
9           provision of this chapter.

10          (b) It shall be an unfair labor practice for a labor  
11          organization—

12           (1) to interfere with, restrain, or coerce any em-  
13           ployee in the exercise by the employee of any right  
14           under this chapter;

15           (2) to cause or attempt to cause the Department  
16           to discriminate against any employee in the exercise by  
17           the employee of any right under this chapter;

18           (3) to coerce, discipline, fine, or attempt to coerce  
19           a member of the labor organization as punishment or  
20           reprisal, or for the purpose of hindering or impeding  
21           the member's work performance or productivity as an  
22           employee or the discharge of the member's functions as  
23           an employee;

24           (4) to discriminate against an employee with  
25           regard to the terms and conditions of membership in

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1 the labor organization on the basis of race, color,  
2 creed, national origin, sex, age, preferential or Service  
3 status, political affiliation, marital status, or handicap-  
4 ping condition;

5 (5) to refuse to consult or negotiate in good faith  
6 with the Department, as required under this chapter;

7 (6) to fail or refuse to cooperate in impasse proce-  
8 dures and impasse decisions, as required under this  
9 chapter;

10 (7)(A) to call, or participate in, a strike, work  
11 stoppage, or slowdown, or to picket the Department's  
12 operations, but informational picketing in the United  
13 States which does not interfere with such operations  
14 shall not be considered an unfair labor practice; and

15 (B) to condone any activity described in subpara-  
16 graph (A) by failing to take action to prevent or stop  
17 such activity;

18 (8) to deny membership to any employee in the  
19 unit represented by the exclusive representative  
20 except—

21 (A) for failure to tender dues uniformly re-  
22 quired as a condition of acquiring and retaining  
23 membership, or

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1 (B) in the exercise of disciplinary procedures  
2 consistent with the organization's constitution or  
3 bylaws and this chapter; or

4 (9) to fail or refuse otherwise to comply with any  
5 provision of this chapter.

6 (c) The expression of any personal view, argument, or  
7 opinion, or the making of any statement, which—

8 (1) publicizes the fact of a representational elec-  
9 tion and encourages employees to exercise their right  
10 to vote in such an election;

11 (2) corrects the record with respect to any false or  
12 misleading statement made by any person; or

13 (3) informs employees of the Government's policy  
14 relating to labor-management relations and repre-  
15 sentation,

16 if the expression contains no threat of reprisal or force or  
17 promise of benefit and was not made under coercive condi-  
18 tions shall not—

19 (A) constitute an unfair labor practice under this  
20 chapter, or

21 (B) constitute grounds for the setting aside of any  
22 election conducted under this chapter.

23 (d) Issues which can properly be raised under an appeals  
24 procedure may not be raised as unfair labor practices prohib-  
25 ited under this section. Except for matters wherein, under

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1 section 1131(b), an employee has an option of using the  
2 grievance procedure under chapter 11 or an appeals proce-  
3 dure, issues which can be raised under section 1024 or chap-  
4 ter 11 may, in the discretion of the aggrieved party, be raised  
5 either under such section or chapter or else raised as an  
6 unfair labor practice under this section, but may not be raised  
7 both under this section and under section 1024 or chapter 11.

8       SEC. 1041. STANDARDS OF CONDUCT FOR LABOR OR-  
9       GANIZATIONS.—(a) The Department shall accord recognition  
10 only to a labor organization that is free from corrupt influ-  
11 ences and influences opposed to basic democratic principles.  
12 Except as provided in subsection (b), an organization is not  
13 required to prove that it is free from such influences if it is  
14 subject to a governing requirement adopted by the organiza-  
15 tion or by a national or international labor organization or  
16 federation of labor organizations with which it is affiliated, or  
17 in which it participates, containing explicit and detailed pro-  
18 visions to which it subscribes calling for—

19               (1) the maintenance of democratic procedures and  
20 practices, including—

21                       (A) provisions for periodic elections to be  
22 conducted subject to recognized safeguards, and

23                       (B) provisions defining and securing the right  
24 of individual members to participate in the affairs  
25 of the organization, to receive fair and equal

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1 treatment under the governing rules of the organi-  
2 zation, and to receive fair process in disciplinary  
3 proceedings;

4 (2) the exclusion from office in the organization of  
5 persons affiliated with Communist or other totalitarian  
6 movements and persons identified with corrupt  
7 influences;

8 (3) the prohibition of business or financial interests  
9 on the part of organization officers and agents which  
10 conflict with their duty to the organization and its  
11 members; and

12 (4) the maintenance of fiscal integrity in the con-  
13 duct of the affairs of the organization, including provi-  
14 sions for accounting and financial controls and regular  
15 financial reports or summaries to be made available to  
16 members.

17 (b) A labor organization may be required to furnish evi-  
18 dence of its freedom from corrupt influences opposed to basic  
19 democratic principles if there is reasonable cause to believe  
20 that—

21 (1) the organization has been suspended or ex-  
22 pelled from, or is subject to other sanction by, a parent  
23 labor organization, or federation of organizations with  
24 which it has been affiliated, because it has demonstrat-  
25 ed an unwillingness or inability to comply with govern-

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1       ing requirements comparable in purpose to those  
2       required by subsection (a); or

3               (2) the organization is in fact subject to influences  
4       that would preclude recognition under this chapter.

5       (c) A labor organization which has or seeks recognition  
6       as a representative of employees under this chapter shall file  
7       financial and other reports with the Assistant Secretary of  
8       Labor for Labor Management Relations, provide for bonding  
9       of officials and employees of the organization, and comply  
10      with trusteeship and election standards.

11      (d) The Assistant Secretary of Labor shall prescribe  
12      such regulations as are necessary to carry out this section.  
13      Such regulations shall conform generally to the principles ap-  
14      plied to labor organizations in the private sector. Complaints  
15      of violations of this section shall be filed with the Assistant  
16      Secretary. In any matter arising under this section, the As-  
17      sistant Secretary may require a labor organization to cease  
18      and desist from violations of this section and require it to take  
19      such actions as the Assistant Secretary considers appropriate  
20      to carry out the policies of this section.

21      (e) This chapter does not authorize participation in the  
22      management of a labor organization or acting as a repre-  
23      sentative of a labor organization by a management official, a  
24      confidential employee, or any other employee if the participa-  
25      tion or activity would result in a conflict or apparent conflict

1 of interest or would otherwise be incompatible with law or  
2 with the official functions of the management official or confi-  
3 dential employee.

4 (f) If the Board finds that any labor organization has  
5 wilfully and intentionally violated section 1031(b)(7)(A) by  
6 omission or commission with regard to any strike, work stop-  
7 page, prohibited picketing or slowdown, the Board may—

8 (1) revoke the exclusive recognition status of the  
9 labor organization, which shall then immediately cease  
10 to be legally entitled and obligated to represent em-  
11 ployees in the unit; or

12 (2) take any other appropriate disciplinary action  
13 in addition to or in lieu of such revocation.

14 SEC. 1051. ADMINISTRATIVE PROVISIONS.—(a) If the  
15 Department has received from any person a written assign-  
16 ment which authorizes the Department to deduct from the  
17 salary of that person amounts for the payment of regular and  
18 periodic dues of the exclusive representative, the Department  
19 shall honor the assignment. Any such assignment shall be  
20 made at no cost to the exclusive representative or the indi-  
21 vidual. Except as provided in subsection (b), any such assign-  
22 ment may not be revoked for a period of one year from its  
23 execution.

24 (b) An assignment for deduction of dues shall terminate  
25 when—



1           (1) the dues-withholding agreement between the  
2     Department and the exclusive representative is termi-  
3     nated or ceases to be applicable to the individual; or

4           (2) the employee is suspended or expelled from  
5     membership in the exclusive representative.

6     (c) During any period when no labor organization is cer-  
7     tified as the exclusive representative of employees in the De-  
8     partment, the Department shall have the duty to negotiate  
9     with a labor organization which has filed a petition under  
10    section 1021(b)(1)(A) if the Board has determined that the  
11    petition is valid. Negotiations under this subsection shall be  
12    concerned solely with the deduction of dues of the labor orga-  
13    nization from the pay of the employees who are members of  
14    the labor organization and who make a voluntary allotment  
15    for that purpose. Any agreement between the Department  
16    and a labor organization under this subsection shall terminate  
17    upon the certification of an exclusive representative of any  
18    employees to whom the agreement applies.

19    (d) The following provisions shall apply to the use of  
20    official time:

21           (1) Any employee representing an exclusive repre-  
22    sentative in the negotiation of a collective bargaining  
23    agreement under this chapter shall be authorized offi-  
24    cial time for such purposes, including attendance at im-  
25    passe proceedings, during the time the employee other-

1       wise would be in a duty status. The number of employ-  
2       ees for whom official time is authorized under this  
3       paragraph shall not exceed the number of individuals  
4       designated as representing the Department for such  
5       purposes.

6       (2) Any activities performed by any employee re-  
7       lating to the internal business of the labor organization,  
8       including the solicitation of membership, elections of  
9       labor organization officials, and collection of dues, shall  
10      be performed during the time the employee is in a non-  
11      duty status.

12      (3) The Board shall determine whether any em-  
13      ployee participating for, or on behalf of, a labor organi-  
14      zation in any phase of proceedings before the Board  
15      shall be authorized official time for such purpose during  
16      the time the employee would otherwise be in a duty  
17      status.

18      (4) Except as provided in paragraphs (1), (2), and  
19      (3), any employee representing an exclusive repre-  
20      sentative, or engaged in any other matter covered by  
21      this chapter, shall be granted official time in any  
22      amount the Department and the exclusive representa-  
23      tive agree to be reasonable, necessary, and in the  
24      public interest.

## 1 CHAPTER 11—GRIEVANCES

2 SEC. 1101. DEFINITION OF GRIEVANCE.—(a) Except  
3 as provided in subsection (b), for purposes of this chapter, the  
4 term “grievance” means any act or condition subject to the  
5 control of the Department which is alleged to deprive a  
6 member of the Service who is a citizen of the United States  
7 of a right or benefit authorized by law or regulation or which  
8 is otherwise a source of concern or dissatisfaction to the  
9 member, including but not limited to the following:

10 (1) involuntary separation of a member allegedly  
11 contrary to law or regulation, or predicated upon al-  
12 leged inaccuracy, omission, error, or falsely prejudicial  
13 information in any part of the member’s official person-  
14 nel record;

15 (2) other alleged violation, misinterpretation, or  
16 misapplication of applicable law, regulation, or pub-  
17 lished policy affecting the terms and conditions of the  
18 member’s employment or career status;

19 (3) allegedly wrongful disciplinary action against  
20 the member;

21 (4) dissatisfaction with respect to the member’s  
22 physical working environment;

23 (5) alleged inaccuracy, error, omission, or falsely  
24 prejudicial information in the member’s official person-  
25 nel file which is or could be prejudicial to the member;

1           (6) action alleged to be in the nature of reprisal or  
2           other interference with freedom of action in connection  
3           with the member's participation in procedures under  
4           this chapter;

5           (7) alleged denial of an allowance, premium pay,  
6           or other financial benefit to which the member claims  
7           entitlement under applicable law or regulation.

8           (b) A grievance may not be filed under this chapter with  
9           respect to any of the following:

10          (1) an individual assignment or transfer of a  
11          member ordered in accordance with law and regula-  
12          tion;

13          (2) the judgment of a selection board established  
14          under section 603, a tenure board established under  
15          section 322(b), or any other equivalent body estab-  
16          lished by law or regulation which similarly evaluates  
17          the performance of members of the Service on a com-  
18          parative basis;

19          (3) expiration of a limited or temporary appoint-  
20          ment or termination of a limited or temporary appoint-  
21          ment under section 661; or

22          (4) any complaint or appeal where a specific stat-  
23          utory hearing procedure exists, except as provided in  
24          section 1131(b).

1 (c) The scope of grievances described in this section may  
2 be modified by written agreement between the Department  
3 and the labor organization accorded recognition as the exclu-  
4 sive representative of members of the Service under chapter  
5 10 (hereinafter "the exclusive representative").

6 SEC. 1102. GRIEVANCES CONCERNING FORMER MEM-  
7 BERS.—Within the time limitations specified in section 1104,  
8 a former member of the Service or the surviving spouse (or, if  
9 none, another member of the family) of a deceased member or  
10 former member of the Service may present a grievance with  
11 respect to allegations described in paragraph (7) of section  
12 1101(a).

13 SEC. 1103. FREEDOM OF ACTION.—(a) Any person  
14 presenting or filing a grievance (hereinafter "the grievant"),  
15 and any witness or other person involved in a grievance pro-  
16 ceeding, shall be free from any restraint, interference, coer-  
17 cion, harassment, discrimination, or reprisal in those proceed-  
18 ings or by virtue of them.

19 (b) A grievant who is a member of the bargaining unit  
20 represented by an exclusive representative shall be  
21 represented at every stage of the proceedings only if repre-  
22 sented by that exclusive representative (which may approve  
23 the participation in the proceedings by an additional person  
24 on the grievant's behalf). Such a grievant has the right to  
25 present a grievance on his or her own behalf; however, the

1 exclusive representative shall have the right to be present  
2 during the grievance proceedings. Any grievant who is not a  
3 member of such a bargaining unit has the right at every stage  
4 of the proceedings to representation of the grievant's own  
5 choosing. The grievant and any representative who is a  
6 member of the Service or an officer or employee of the De-  
7 partment shall be granted reasonable periods of administra-  
8 tive leave to prepare and present the grievance, and to attend  
9 proceedings under this chapter.

10 (c) Any witness who is a member of the Service or an  
11 officer or employee of the Department shall be granted rea-  
12 sonable periods of administrative leave to appear and testify  
13 at any such proceedings.

14 (d) The Foreign Service Grievance Board is authorized  
15 to assure that no record of—

16 (1) a determination by the Secretary to reject a  
17 Grievance Board recommendation,

18 (2) a finding by the Grievance Board against the  
19 grievant, or

20 (3) the fact that a proceeding is pending or has  
21 been held,

22 shall be entered in the personnel records of the grievant  
23 (except by order of the Grievance Board as a remedy for the  
24 grievance) or those of any other person connected with the  
25 grievance. The Department shall maintain records pertaining

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1 to grievances under appropriate safeguards to preserve confi-  
2 dentiality.

3 (e) The Department will use its best endeavors to expe-  
4 dite security clearance procedures whenever necessary to  
5 insure a fair and prompt resolution of a grievance.

6 SEC. 1104. TIME LIMITATIONS.—(a) A grievance is  
7 forever barred, unless it is presented within a period of three  
8 years after the occurrence or occurrences giving rise to the  
9 grievance or such shorter period as may be agreed to by the  
10 Department and the exclusive representative.

11 (b) There shall be excluded from the computation of the  
12 three-year period specified in subsection (a) any time during  
13 which, as determined by the Foreign Service Grievance  
14 Board, the grievant was unaware of the grounds for the  
15 grievance and could not have discovered such grounds  
16 through reasonable diligence.

17 (c) If a grievance is not resolved under Department pro-  
18 cedures (which have been negotiated with the exclusive rep-  
19 resentative, if any) within ninety days of written presenta-  
20 tion, the exclusive representative (on behalf of a grievant  
21 who is a member of the bargaining unit) or a grievant who is  
22 not a member of such bargaining unit shall be entitled to file  
23 a grievance with the Foreign Service Grievance Board for its  
24 consideration and resolution.

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1        SEC. 1111. THE FOREIGN SERVICE GRIEVANCE  
2 BOARD.—(a) There is established the Foreign Service Griev-  
3 ance Board (hereinafter “the Board”). The Board shall con-  
4 sist of not fewer than five members, all of whom shall be  
5 independent, distinguished citizens of the United States, well  
6 known for their integrity, who are not presently serving as  
7 officers, employees or consultants of the Department or as  
8 members of the Service.

9        (b) The chairperson and other members of the Board  
10 shall be appointed by the Secretary, from nominees approved  
11 in writing by the agencies to which this chapter applies and  
12 the exclusive representative (if any) of employees in each  
13 such agency. Each member of the Board shall be appointed  
14 for a term of two years, subject to renewal with the same  
15 written approvals required for initial appointment. In the  
16 event of a vacancy on the Board, an appointment for the  
17 unexpired term may be made by the Secretary in accordance  
18 with the procedures specified in this section. In the event of  
19 inability to obtain agreement on a nominee, each agency and  
20 each exclusive representative whose agreement is required  
21 shall select two nominees and each such agency and exclu-  
22 sive representative in an order determined by lot, shall in  
23 turn strike a name from a list of such nominees until only one  
24 remains.



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1 (c) Members of the Board who are not employees of the  
2 Government shall receive compensation for each day they are  
3 performing their duties (including travetime) at the daily rate  
4 paid an individual at Grade 18 of the General Schedule de-  
5 scribed in section 5104 of title 5, United States Code.

6 (d) The Secretary may remove a Board member upon  
7 written notice for corruption, neglect of duty, malfeasance or  
8 demonstrated incapacity to perform his or her functions, es-  
9 tablished at a hearing, except where the right to a hearing is  
10 waived in writing.

11 (e) The Board may obtain facilities, services and sup-  
12 plies through the general administrative services of the De-  
13 partment. All expenses of the Board, including necessary  
14 costs of a grievant's travel and travel-related expenses, shall  
15 be paid out of funds appropriated to the Department for obli-  
16 gation and expenditure by the Board. At the request of the  
17 Board, officers and employees of the Department and mem-  
18 bers of the Service may be assigned as staff employees for  
19 the Board. Within the limits of appropriated funds, the Board  
20 may appoint and fix the compensation of such other employ-  
21 ees as the Board considers necessary to carry out its func-  
22 tions. The members, officers, and employees so appointed or  
23 assigned shall be responsible solely to the Board, and the  
24 Board shall prepare the performance evaluation reports for  
25 such members, officers, and employees. The records of the

1 Board shall be maintained by the Board and shall be separate  
2 from all other records of the Department.

3 SEC. 1112. BOARD PROCEDURES.—The Board may  
4 adopt regulations concerning its organization and procedures.  
5 Such regulations shall include provision for the following:

6 (1) The Board shall conduct a hearing at the  
7 request of a grievant in any case which involves—

8 (A) disciplinary action or a grievant's retire-  
9 ment from the Service under section 641 or 642,  
10 or

11 (B) issues which, in the judgment of the  
12 Board, can best be resolved by a hearing or  
13 presentation of oral argument.

14 (2) The grievant, the grievant's representatives,  
15 and the Department's representatives are entitled to be  
16 present at the hearing. The Board may, after consider-  
17 ing the views of the parties and any other individuals  
18 connected with the grievance, decide that a hearing  
19 should be open to others. Testimony at a hearing shall  
20 be given by oath or affirmation which any Board  
21 member or person designated by the Board shall have  
22 authority to administer.

23 (3) Each party shall be entitled to examine and  
24 cross-examine witnesses at the hearing or by deposi-  
25 tion, and to serve interrogatories upon another party

1 and have such interrogatories answered by the other  
2 party unless the Board finds such interrogatory irrele-  
3 vant, immaterial or unduly repetitive. Upon request of  
4 the Board, or upon a request of the grievant deemed  
5 relevant and material by the Board, an agency shall  
6 promptly make available at the hearing or by deposi-  
7 tion any witness under its control, supervision, or re-  
8 sponsibility, except that if the Board determines that  
9 the presence of such witness at the hearing is required  
10 for just resolution of the grievance, then the witness  
11 shall be made available at the hearing, with necessary  
12 costs and travel expenses provided by the Department.

13 (4) During any hearing held by the Board, any  
14 oral or documentary evidence may be received, but the  
15 Board shall exclude any irrelevant, immaterial or  
16 unduly repetitious evidence as determined under sec-  
17 tion 556 of title 5, United States Code.

18 (5) A verbatim transcript shall be made of any  
19 hearing and shall be part of the record of proceedings.

20 (6) In those grievances in which the Board holds  
21 no hearing, the Board shall offer to each party the op-  
22 portunity to review and to supplement, by written sub-  
23 missions, the record of proceedings prior to its decision.  
24 The Board decision shall be based exclusively on the  
25 record of proceedings.

1           (7) The Board may act by or through panels or  
2 individual members designated by the Chairperson,  
3 except that hearings within the continental United  
4 States shall be held by panels of at least three mem-  
5 bers unless the parties agree otherwise. References in  
6 this chapter to the Board shall be considered to be  
7 references to a panel or member of the Board where  
8 appropriate. All members of the Board shall act as  
9 impartial individuals in considering grievances.

10           (8) If the Board determines that the Department  
11 is considering the involuntary separation of the griev-  
12 ant, disciplinary action against the grievant, or recov-  
13 ery from the grievant of alleged overpayment of salary,  
14 expenses, or allowances, which is related to a griev-  
15 ance pending before the Board, and that such action  
16 should be suspended, the Department shall suspend  
17 such action until the Board has ruled upon the griev-  
18 ance. Notwithstanding such suspension of action, the  
19 head of the agency concerned or a chief of mission or  
20 principal officer may exclude the grievant from official  
21 premises or from the performance of specified functions  
22 when such exclusion is determined in writing to be es-  
23 sential to the functioning of the post or office to which  
24 the grievant is assigned.

1           (9) A grievant whose grievance is found not to be  
2       meritorious by the Board may obtain reconsideration  
3       by the Board only upon presenting newly discovered or  
4       previously unavailable material evidence not previously  
5       considered by the Board, and then only upon approval  
6       of the Board.

7       SEC. 1113. BOARD DECISIONS.—(a) Upon completion  
8       of its proceedings, the Board shall expeditiously decide the  
9       grievance on the basis of the record of proceedings, and in  
10      light of previous adjudications of similar issues under this  
11      chapter and under section 1024. In each case the decision of  
12      the Board shall be in writing, and shall include findings of  
13      fact and a statement of the reasons for the Board's decision.

14      (b) If the Board finds that the grievance is meritorious,  
15      the Board shall have the authority, within the limitations of  
16      the Secretary's authority, to direct the Department—

17           (1) to correct any official personnel record relating  
18      to the grievant which the Board finds to be inaccurate,  
19      erroneous, or falsely prejudicial;

20           (2) to reverse an administrative decision denying  
21      the grievant compensation or any other perquisite of  
22      employment authorized by law or regulation when the  
23      Board finds that such denial was arbitrary, capricious,  
24      or contrary to law or regulation;

1           (3) to retain in the Service a member whose sepa-  
2           ration would be in consequence of the matter by which  
3           the member is aggrieved;

4           (4) to reinstate the grievant with back pay, under  
5           applicable law and regulations, where it is clearly es-  
6           tablished that the grievant's separation or suspension  
7           without pay was unjustified or unwarranted; and

8           (5) to take such other remedial action as may be  
9           appropriate in procedures agreed to by the Department  
10          and the exclusive representative.

11          (c) Orders of the Board under this chapter shall be final,  
12          subject only to judicial review as provided in section 1141,  
13          except as provided in subsection (d).

14          (d) If the Board finds that the grievance is meritorious  
15          and that remedial action should be taken that relates directly  
16          to promotion or assignment of the grievant or to other reme-  
17          dial action not otherwise provided in this section, or if the  
18          Board finds that the evidence before it warrants disciplinary  
19          action against any officer or employee of the Department or  
20          member of the Service, it shall make an appropriate recom-  
21          mendation to the Secretary. The Secretary shall make a  
22          written decision on the Board's recommendation. A recom-  
23          mendation of the Board may be rejected in whole or in part if  
24          the recommendation would be contrary to law, would ad-  
25          versely affect the foreign policy or security of the United

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1 States, or would substantially impair the efficiency of the De-  
2 partment or the Service. If the Secretary rejects the recom-  
3 mendation in whole or in part, the decision shall specify the  
4 reasons for such action. Pending the Secretary's decision,  
5 there shall be no ex parte communication concerning the  
6 grievance between the Secretary and any person involved in  
7 the Board's proceedings. The Secretary shall, however, have  
8 access to the entire record of the Board's proceedings.

9 SEC. 1121. ACCESS TO RECORDS.—(a) In considering  
10 the validity of a grievance, the Board shall have access, to  
11 the extent permitted by law, to any agency record considered  
12 by the Board to be relevant to the grievant and the subject  
13 matter of the grievance.

14 (b) The Department shall, subject to applicable law,  
15 promptly furnish the grievant any Department record which  
16 the grievant requests to substantiate the grievance and which  
17 the Board determines is relevant and material to the proceed-  
18 ings. When deemed appropriate by the Board, a grievant  
19 may be supplied with only a summary or extract of classified  
20 material. If a request by a grievant for a document is denied  
21 prior to or during the Department's consideration of a griev-  
22 ance, such denial may be raised by the grievant as an  
23 integral part of the grievance before the Board.

24 (c) This chapter does not require disclosure of any  
25 agency record to the Board or a grievant where the head of

1 agency or deputy determines in writing that such disclosure  
2 would adversely affect the foreign policy or national security  
3 of the United States.

4 (d) The grievant in any case decided by the Board shall  
5 have access to the Board's record of proceedings and  
6 decision.

7 SEC. 1131. RELATIONSHIP TO OTHER REMEDIES.—

8 (a) A grievant may not file a grievance with the Board if the  
9 grievant has formally requested, prior to filing a grievance,  
10 that the matter or matters which are the basis of the griev-  
11 ance be considered or resolved and relief be provided, under  
12 another provision of law, regulation, or Executive order, and  
13 the matter has been carried to final decision thereunder on its  
14 merits or is still under consideration.

15 (b) If a grievant is not prohibited from filing a grievance  
16 under subsection (a), the grievant may file with the Board a  
17 grievance which is also eligible for consideration, resolution,  
18 and relief under chapter 12 of title 5, United States Code, or  
19 a regulation or Executive order other than under this chap-  
20 ter. Such an election of remedies shall be final upon the ac-  
21 ceptance of jurisdiction by the Board.

22 SEC. 1141. JUDICIAL REVIEW.—Any aggrieved party  
23 may obtain judicial review of regulations prescribed by the  
24 Secretary under this chapter and final action of the Secretary  
25 or the Board on any grievance in the district courts of the



1 United States in accordance with the standards set forth in  
2 chapter 7 of title 5, United States Code. Section 706 of title  
3 5, United States Code, shall apply without limitation or  
4 exception.

5 CHAPTER 12—COMPATIBILITY OF PERSONNEL SYSTEMS

6 SEC. 1201. COMPATIBILITY BETWEEN THE FOREIGN  
7 SERVICE AND OTHER GOVERNMENT PERSONNEL SYS-  
8 TEMS.—The Service shall be administered to the extent  
9 practicable in conformity with general policies and regula-  
10 tions of the Government. The Secretary shall consult with  
11 the Director of the Office of Personnel Management, the Di-  
12 rector of the Office of Management and Budget, and the  
13 heads of other agencies as the President shall determine,  
14 through appropriate mechanisms, in order to assure compati-  
15 bility of the Service to the extent practicable with other Gov-  
16 ernment personnel systems.

17 SEC. 1202. COMPATIBILITY BETWEEN CIVIL SERVICE  
18 AND FOREIGN SERVICE RETIREMENT SYSTEMS.—(a) In  
19 order to maintain existing conformity between the Civil Serv-  
20 ice Retirement and Disability System (subchapter III of  
21 chapter 83 of title 5, United States Code) and the Foreign  
22 Service Retirement and Disability System (chapter 8 of this  
23 Act), whenever a law of general applicability is enacted  
24 which—

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1           (1) affects current or former participants, annu-  
2           itants or survivors under the Civil Service Retirement  
3           and Disability System; and

4           (2) alters substantially identical treatment existing  
5           immediately prior to the enactment of such law, under  
6           a corresponding provision of law affecting participants,  
7           former participants, annuitants or survivors under the  
8           Foreign Service Retirement and Disability System;  
9           such provision of law shall be deemed to extend to the latter  
10          System so that it applies in like manner with respect to For-  
11          eign Service Retirement and Disability System participants,  
12          former participants, annuitants or survivors.

13          The President is authorized by Executive order to pre-  
14          scribe regulations to implement this section and to make such  
15          extension retroactive to a date no earlier than the effective  
16          date of such provision for the Civil Service Retirement and  
17          Disability System. Any provisions of an Executive order  
18          issued under the authority of this section shall modify, super-  
19          sede or render inapplicable, as the case may be, to the extent  
20          inconsistent therewith—

21               (1) all provisions of law enacted prior to the effec-  
22               tive date of the provision of such Executive order; and

23               (2) any prior provision of an Executive order  
24               issued under authority of this section.

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1        SEC. 1203. COMPATIBILITY AMONG AGENCIES EM-  
2        PLOYING FOREIGN SERVICE PERSONNEL.—The Service  
3        shall be administered to the extent practicable in a manner  
4        that will assure maximum compatibility among agencies au-  
5        thorized by law to utilize the Foreign Service personnel  
6        system. To this end, the heads of such agencies shall consult  
7        regularly with the Secretary.

8        SEC. 1204. CONSOLIDATED AND UNIFORM ADMINIS-  
9        TRATION.—The Secretary shall on a continuing basis con-  
10       sider the need for uniformity of personnel policies and proce-  
11       dures and (in accordance with section 23 of the Act of  
12       August 1, 1956 (22 U.S.C. 2695)), consolidation of personnel  
13       functions among agencies utilizing the Foreign Service per-  
14       sonnel system. Where feasible, the Secretary shall encourage  
15       the development of uniform policies and procedures and con-  
16       solidated personnel functions in consultation with such  
17       agencies.

18       SEC. 1205. EXCLUSIVE FUNCTIONS OF THE SECRE-  
19       TARY.—The Secretary alone among agency heads shall per-  
20       form the following functions, on behalf of all concerned agen-  
21       cies as appropriate:

22                (1) designation of offices abroad as diplomatic in  
23       nature under section 102(3);

1           (2) supervision and direction of the Director Gen-  
2       eral under section 204 and the Inspector General  
3       under section 205;

4           (3) functions under section 206 regarding the  
5       Board of the Foreign Service;

6           (4) issuance of regulations under section 333(b)  
7       regarding employment of family members of Govern-  
8       ment personnel;

9           (5) recommendations to the President under sec-  
10      tion 341 that personnel of the Service serve under  
11      diplomatic or consular commissions;

12          (6) recommendations to the President under sec-  
13      tion 441(d) that members of the Senior Foreign Service  
14      be awarded grants of performance pay for especially  
15      meritorious or distinguished service;

16          (7) issuance of regulations under section 451(c)  
17      regarding local compensation plans;

18          (8) determinations under section 453(a) and issu-  
19      ance of regulations under section 453(d) regarding  
20      compensation for imprisoned foreign nationals;

21          (9) operation of the Foreign Service Institute  
22      under chapter 7;

23          (10) administration of the Foreign Service Retire-  
24      ment and Disability System under chapter 8;

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1 (11) administration of health care programs under  
2 section 921;

3 (12) appointment and removal of members of the  
4 Foreign Service Labor Relations Board and provision  
5 of facilities to such Board under section 1011; and

6 (13) appointment and removal of members of the  
7 Foreign Service Grievance Board and provision of  
8 facilities to such Board under section 1111.

9 TITLE II—TRANSITION, AMENDMENTS TO OTHER  
10 LAWS, REPEALS AND MISCELLANEOUS PRO-  
11 VISIONS

12 CHAPTER 1—TRANSITION

13 SEC. 2101. CONVERSION TO THE FOREIGN SERVICE  
14 SCHEDULE.—(a) The Secretary of State (hereinafter “the  
15 Secretary”) shall convert to the appropriate class in the For-  
16 eign Service Schedule established under section 421 of the  
17 Foreign Service Act of 1979 those members of the Foreign  
18 Service—

19 (1) who on the effective date of this Act are serv-  
20 ing under appointments at or below class 3 of the  
21 schedule established under section 412 or 414 of the  
22 Foreign Service Act of 1946 or at any class in the  
23 schedule established under section 415 of such Act  
24 as—

25 (A) Foreign Service officers,

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1 (B) Foreign Service Reserve officers with  
2 limited or unlimited tenure, or

3 (C) Foreign Service Staff officers or  
4 employees; and

5 (2) who (with respect to Reserve and Staff officers  
6 and employees) the Secretary determines are available  
7 for worldwide assignment.

8 (b) Those Reserve and Staff officers and employees who  
9 the Secretary determines are not available for worldwide  
10 availability shall also be converted to the appropriate class  
11 under such section 421 if—

12 (1) the Secretary certifies that there is a need for  
13 their services in the Foreign Service; and

14 (2) they affirm in writing their obligation to accept  
15 worldwide availability for assignment as a condition of  
16 employment.

17 SEC. 2102. CONVERSION TO THE SENIOR FOREIGN  
18 SERVICE.—(a) Foreign Service officers and Foreign Service  
19 Reserve officers with limited and unlimited tenure who are  
20 serving under appointments at class 2 or a higher class of the  
21 schedule established under section 412 or 414 of the Foreign  
22 Service Act of 1946 on the effective date of this Act may at  
23 any time within one hundred and twenty days after such date  
24 elect in a written instrument submitted to the Secretary to  
25 request appointment to the Senior Foreign Service.

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1 (b) Except as provided in subsection (d), if a request  
2 under subsection (a) is submitted by a Foreign Service Re-  
3 serve officer with limited tenure, the Secretary shall grant a  
4 limited appointment of such officer to the appropriate class  
5 established under section 411 of the Foreign Service Act of  
6 1979.

7 (c) Except as provided in subsection (d), if a request  
8 under subsection (a) is submitted by a Foreign Service officer  
9 or a Foreign Service Reserve officer with unlimited tenure,  
10 the Secretary shall recommend to the President a career ap-  
11 pointment of such officer, by and with the advice and consent  
12 of the Senate, to the appropriate class established under  
13 section 411 of the Foreign Service Act of 1979.

14 (d) If the Secretary determines that a Reserve officer  
15 with limited or unlimited tenure who submits a request under  
16 subsection (a) is not available for worldwide assignment, an  
17 appointment under subsection (b) or a recommendation for  
18 appointment under subsection (c) shall be made only if—

19 (1) the Secretary certifies that there is a need for  
20 the services of such officer in the Senior Foreign Serv-  
21 ice; and  
22 (2) such officer affirms in writing his or her obli-  
23 gation to accept worldwide availability for assignment  
24 as a condition of employment.

1 (e) If a request for appointment to the Senior Foreign  
2 Service as described in subsection (a) is submitted to the Sec-  
3 retary, but more than one hundred and twenty days after the  
4 effective date of this Act, the Secretary (in the case of a  
5 Foreign Service Reserve officer with limited tenure) may  
6 grant a limited appointment or (in the case of a Foreign Serv-  
7 ice officer or Foreign Service Reserve officer with unlimited  
8 tenure) may recommended to the President a career appoint-  
9 ment of the requesting officer to the appropriate class estab-  
10 lished under section 411 of the Foreign Service Act of 1979,  
11 subject to the conditions specified in subsection (d) and such  
12 other conditions as the Secretary may prescribe in light of  
13 the provisions of the Foreign Service Act of 1979 relating to  
14 promotion into the Senior Foreign Service.

15 (f) Any officer of the Foreign Service who is eligible to  
16 submit a request under subsection (a) and—

17 (1) who does not submit such a request within one  
18 hundred and twenty days after the effective date of this  
19 Act, or

20 (2) who submits such a request more than one  
21 hundred and twenty days after the effective date of this  
22 Act and is not appointed to the Senior Foreign Service  
23 for any reason other than failure to meet the conditions  
24 specified in subsection (d),



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1 may remain in the Foreign Service for not more than three  
2 years after the effective date of this Act. During such period,  
3 the officer shall be subject to the provisions of the Foreign  
4 Service Act of 1979 regarding members of the Senior For-  
5 eign Service, except that such officer shall not be eligible to  
6 compete for performance pay under section 441 of such Act,  
7 and shall not be eligible for a limited career extension as  
8 described in section 641(b) of such Act. Upon separation, any  
9 such officer who is a participant in the Foreign Service Re-  
10 tirement and Disability System shall be entitled to retirement  
11 benefits determined in accordance with chapter 8 of the  
12 Foreign Service Act of 1979.

13       SEC. 2103. CONVERSION TO THE CIVIL SERVICE.—(a)  
14 Members of the Foreign Service who are serving on the ef-  
15 fective date of the Act in a personnel category described in  
16 section 2101(a)(1) or 2102(a) and who are not converted into  
17 an appropriate class in the Foreign Service Schedule under  
18 section 2101 or in the Senior Foreign Service under section  
19 2102 because they do not meet the conditions specified in  
20 section 2101(b) or 2102(d) shall, not later than three years  
21 after the effective date of this Act, be converted to the appro-  
22 priate grade in the General Schedule described in section  
23 5104 of title 5, United States Code, notwithstanding any  
24 other law, except that such members who meet the eligibility  
25 requirements for the Senior Executive Service and who elect

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1 to join that Service shall be converted to the Senior Execu-  
2 tive Service in the appropriate rate of basic pay established  
3 under section 5382 of title 5, United States Code.

4 (b)(1) This section shall not apply prior to July 1, 1981,  
5 to personnel of the International Communication Agency  
6 who are covered by an existing agreement with the exclusive  
7 representative of those personnel. Prior to that date, mem-  
8 bers of the Service exempted from conversion by this subsec-  
9 tion may elect to remain in the Foreign Service and, notwith-  
10 standing any other provision of law, the status, promotion,  
11 class, and tenure of such personnel shall continue to be gov-  
12 erned by the Foreign Service Act of 1946 and Public Law  
13 90-494 (as those Acts were in effect immediately prior to the  
14 effective date of this Act). The Foreign Service Act of 1979  
15 (except sections 411, 421, 431, 441, and 531) shall also  
16 apply to such members of the Service, and such personnel  
17 shall be considered personnel of the Service for purposes of  
18 sections 103, 442, 511, 521, 651, and 803 of this Act.

19 (2) The President shall prescribe salary rates for the  
20 personnel who are temporarily excepted from conversion  
21 under this subsection in accordance with the salary classes  
22 established under sections 414 and 415 of the Foreign Serv-  
23 ice Act of 1946. Salary rates for such personnel shall be  
24 adjusted at the same time as rates of basic pay are adjusted

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1 for the General Schedule and in such manner as to preserve  
2 without prejudice the comparable rates of pay for each class.

3 SEC. 2104. PRESERVATION OF STATUS AND BENE-  
4 FITS.—(a)(1) Every member of the Foreign Service who is  
5 converted to a different personnel system or category under  
6 this chapter shall be converted, notwithstanding any other  
7 law, to the class or grade and salary rate that most closely  
8 corresponds to the class and step at which the member was  
9 serving prior to conversion, except that no conversion shall  
10 cause any individual to incur a reduction in his or her class,  
11 grade, or basic rate of salary: *Provided*, That until such con-  
12 versions are made the affected personnel shall receive basic  
13 salary and allowances as if they had been converted under  
14 section 2101 or 2102, as appropriate, on the effective date of  
15 this Act.

16 (2) Conversions of members of the Foreign Service to  
17 new salary schedules under sections 2101 and 2102 shall in  
18 each case be to a class and step determined, in accordance  
19 with regulations prescribed under section 2105 to correspond  
20 to the class and step under which the member was serving  
21 immediately prior to conversion. Such regulations shall  
22 assure that no such conversion shall cause any individual to  
23 incur a reduction in salary.

24 (b) Any participant in the Foreign Service Retirement  
25 and Disability System who would normally participate in the

1 Civil Service Retirement and Disability System by virtue of  
2 the enactment of this Act or conversion under this chapter  
3 shall remain a participant in the Foreign Service Retirement  
4 and Disability System for one hundred and twenty days after  
5 participation in such system would otherwise cease. During  
6 such one hundred and twenty-day period, the individual may  
7 elect in writing to continue to participate in the Foreign  
8 Service Retirement and Disability System instead of the Civil  
9 Service Retirement and Disability System. If such an elec-  
10 tion is not made, the individual will then be transferred to the  
11 Civil Service Retirement and Disability System and contribu-  
12 tions made by the participant to the Foreign Service Retire-  
13 ment and Disability Fund will be transferred to the Civil  
14 Service Retirement and Disability Fund.

15 (c) Members of the Foreign Service who are converted  
16 under this chapter shall be converted to the type of appoint-  
17 ment which corresponds most closely in tenure to the type of  
18 appointment under which they were serving immediately  
19 prior to such conversion: *Provided*, That no conversion shall  
20 operate to extend the duration of any limited appointment or  
21 previously applicable time in class. Any member of the Serv-  
22 ice who is converted to the Civil Service under this chapter  
23 shall be deemed to be an employee for purposes of subchapter  
24 II of chapter 75 of title 5, United States Code.

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1 (d) Any person who on the effective date of this Act is  
2 serving—

3 (1) under an appointment in the Foreign Service,  
4 or

5 (2) in any other office or position continued by  
6 this Act,

7 may continue to serve under such appointment, subject to the  
8 provisions of this Act, and need not be reappointed by virtue  
9 of the enactment of this Act.

10 (e) Section 642 of the Foreign Service Act of 1979 shall  
11 become applicable effective five years after the effective date  
12 of this Act to members of the Foreign Service—

13 (1) who are serving under career appointments on  
14 the date of enactment of this Act, and

15 (2) who were not subject to section 633(a)(2) of  
16 the Foreign Service Act of 1946 immediately prior to  
17 the effective date of this Act.

18 SEC. 2105. REGULATIONS.—Under the direction of the  
19 President, the Secretary is authorized to prescribe regula-  
20 tions for the implementation of this chapter.

21 SEC. 2106. AUTHORITY OF OTHER AGENCIES.—The  
22 heads of agencies other than the Department of State which  
23 employs Foreign Service personnel are authorized to perform  
24 any of the functions vested in the Secretary by this chapter  
25 with respect to personnel of the Service in their respective

1 agencies. Such agency heads shall consult with the Secretary  
2 in the exercise of such functions.

3 CHAPTER 2—AMENDMENTS TO OTHER LAWS

4 SEC. 2201. BASIC AUTHORITY.—(a) The Act entitled  
5 “An Act to provide certain basic authority for the Depart-  
6 ment of State”, approved August 1, 1956 (22 U.S.C. 2684  
7 et seq.) is amended by adding at the end thereof the following  
8 new sections:

9 “SEC. 24. GIFTS.—(a) The Secretary of State may  
10 accept on behalf of the United States gifts made uncondition-  
11 ally by will or otherwise for the benefit of the Department of  
12 State including the Foreign Service or for the carrying out of  
13 any of its functions. Conditional gifts may be so accepted at  
14 the discretion of the Secretary, and the principal of and  
15 income from any such conditional gift shall be held, invested,  
16 reinvested, and used in accordance with its conditions, but no  
17 gift shall be accepted which is conditioned upon any income  
18 thereof unless such expenditure has been approved by Act of  
19 Congress.

20 “(b) Any unconditional gift of money accepted pursuant  
21 to the authority granted in subsection (a), the net proceeds  
22 from the liquidation pursuant to subsection (c) or (d) of any  
23 other property so accepted, and the proceeds of insurance on  
24 any such gift property not used for its restoration, shall be  
25 deposited in the Treasury of the United States and are

1 hereby appropriated and shall be held in trust by the Secre-  
2 tary of the Treasury for the benefit of the Department of  
3 State including the Foreign Service, and the Secretary of the  
4 Treasury may invest and reinvest such funds in interest-bear-  
5 ing obligations of the United States or in obligations guaran-  
6 teed as to both principal and interest by the United States.  
7 Such gifts and the income from such investments shall be  
8 available for expenditure in the operation of the Department  
9 of State including the Foreign Service and the performance  
10 of its functions, subject to the same examination and audit as  
11 is provided for appropriations made for the Foreign Service  
12 by Congress.

13       “(c) The evidences of any unconditional gift of intangi-  
14 ble personal property, other than money, accepted pursuant  
15 to subsection (a), shall be deposited with the Secretary of the  
16 Treasury, who may hold or liquidate them, except that they  
17 shall be liquidated upon the request of the Secretary of State  
18 whenever necessary to meet payments required in the oper-  
19 ation of the Department including the Service or the perform-  
20 ance of its functions. The proceeds and income from any such  
21 property held by the Secretary of the Treasury shall be avail-  
22 able for expenditures as provided in subsection (b).

23       “(d) The Secretary of State shall hold any real property  
24 or any tangible personal property accepted unconditionally  
25 pursuant to subsection (a), and shall permit such property to

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1 be used for the operation of the Department including the  
2 Service and the performance of its functions, or may lease or  
3 hire such property, and may insure such property, and de-  
4 posit the income thereof with the Secretary of the Treasury  
5 to be available for expenditure as provided in subsection (b).  
6 The income from any such real property or tangible personal  
7 property shall be available for expenditure at the discretion of  
8 the Secretary of State for the maintenance, preservation, or  
9 repair and insurance of such property and any proceeds from  
10 insurance may be used to restore the property insured. Any  
11 such property when not required for the operation of the De-  
12 partment including the Service or the performance of its  
13 functions may be liquidated by the Secretary, and the pro-  
14 ceeds thereof deposited with the Secretary of the Treasury  
15 whenever in the Secretary's judgment the purposes of the  
16 gift will be served thereby.

17       “(e) For the purpose of Federal income, estate, and gift  
18 taxes, any gift, devise, or bequest accepted by the Secretary  
19 under this section shall be deemed to be a gift, devise, or  
20 bequest to and for the use of the United States.

21       “SEC. 25. AUTHORIZATION TO RETAIN ATTOR-  
22 NEYS.—The Secretary of State may, without regard to sec-  
23 tion 3106 of title 5, United States Code, authorize a principal  
24 officer of the Foreign Service to procure legal services when-  
25 ever such services are required for the protection of the inter-



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1 tests of the Government or to enable a member of the Service  
2 to carry on the member's work efficiently.

3 "SEC. 26. EMPLOYMENT OPPORTUNITIES FOR  
4 FAMILY MEMBERS.—(a) In order to expand employment op-  
5 portunities for family members of United States Government  
6 personnel assigned abroad, the Secretary of State shall seek  
7 to conclude such bilateral and multilateral agreements as will  
8 facilitate the employment of such family members in foreign  
9 economies.

10 "(b) Any member of a family of Foreign Service person-  
11 nel may accept gainful employment in a foreign country  
12 unless such employment—

13 "(1) would violate any law of such country or of  
14 the United States; or

15 "(2) could, as certified in writing by the Chief of  
16 the United States Diplomatic Mission in such country,  
17 damage the interests of the United States.

18 "SEC. 27. USE OF VEHICLES.—Notwithstanding the  
19 provisions of section 5 of the Act of July 16, 1914 (31  
20 U.S.C. 638a), the Secretary of State may authorize any prin-  
21 cipal officer to approve the use of Government owned or  
22 leased vehicles located at the principal officer's post for  
23 transportation of United States Government employees and  
24 their families when public transportation is unsafe or not  
25 available.

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1       “SEC. 28. EDUCATIONAL FACILITIES.—Whenever the  
2 Secretary of State determines that educational facilities are  
3 not available, or that existing educational facilities are inad-  
4 equate, to meet the needs of children of American citizens  
5 stationed outside the United States engaged in carrying out  
6 Government activities, he is authorized, in such manner as he  
7 deems appropriate and under such regulations as he may pre-  
8 scribe, to establish, operate, and maintain primary schools,  
9 and school dormitories and related educational facilities for  
10 primary and secondary schools, outside the United States, or  
11 to make grants of funds for such purposes, or otherwise pro-  
12 vide for such educational facilities. The provisions of the For-  
13 eign Service Buildings Act, 1926, as amended, and of para-  
14 graphs (h) and (i) of section 3 of this Act, may be utilized by  
15 the Secretary in providing assistance for educational facili-  
16 ties. Assistance may include, but shall not be limited to,  
17 hiring, transporting, and payment of teachers and other nec-  
18 essary personnel.

19       “SEC. 29. MALPRACTICE PROTECTION.—(a) The  
20 remedy—

21               “(1) against the United States provided by sec-  
22 tions 1346(b) and 2672 of title 28 of the United States  
23 Code, or

24               “(2) through proceedings for compensation or  
25 other benefits from the United States as provided by

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1       any other law, where the availability of such benefits  
2       precludes a remedy under such sections,  
3       for damages for personal injury, including death, allegedly  
4       arising from malpractice or negligence of a physician, dentist,  
5       nurse, pharmacist, or paramedical (including medical and  
6       dental assistants and technicians, nursing assistants, and  
7       therapists) or other supporting personnel of the Department  
8       of State in furnishing medical care or related services, includ-  
9       ing the conducting of clinical studies or investigations, while  
10      in the exercise of his or her duties in or for the Department of  
11      State or any other Federal department, agency, or instru-  
12      mentality shall be exclusive of any other civil action or pro-  
13      ceeding by reason of the same subject matter against such  
14      physician, dentist, nurse, pharmacist, or paramedical or other  
15      supporting personnel (or his or her estate) whose act or omis-  
16      sion gave rise to such claim.

17      “(b) The United States Government shall defend any  
18      civil action or proceeding brought in any court against any  
19      person referred to in subsection (a) of this section (or his or  
20      her estate) for any such damage or injury. Any such person  
21      against whom such civil action or proceeding is brought shall  
22      deliver, within such time after date of service or knowledge  
23      of service as determined by the Attorney General, all process  
24      served upon him or her or an attested true copy thereof to  
25      whomever was designated by the Secretary to receive such

1 papers and such person shall promptly furnish copies of the  
2 pleading and process therein to the United States attorney  
3 for the district embracing the place wherein the proceeding is  
4 brought, to the Attorney General, and to the Secretary.

5     “(c) Upon a certification by the Attorney General that  
6 the defendant was acting within the scope of his or her em-  
7 ployment in or for the Department of State or any other Fed-  
8 eral department, agency, or instrumentality at the time of the  
9 incident out of which the suit arose, any such civil action or  
10 proceeding commenced in a State court shall be removed  
11 without bond at any time before trial by the Attorney Gener-  
12 al to the district court of the United States of the district and  
13 division embracing the place wherein it is pending and the  
14 proceeding deemed a tort action brought against the United  
15 States under the provisions of title 28 of the United States  
16 Code and all references thereto. Should a United States dis-  
17 trict court determine on a hearing on a motion to remand  
18 held before a trial on the merits that the case so removed is  
19 one in which a remedy by suit within the meaning of subsec-  
20 tion (a) of this section is not available against the United  
21 States, the case shall be remanded to the State court except  
22 that where such remedy is precluded because of the availabil-  
23 ity of a remedy through proceedings for compensation or  
24 other benefits from the United States as provided by any  
25 other law, the case shall be dismissed, but in that event, the

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1 running of any limitation of time for commencing, or filing an  
2 application or claim in, such proceedings for compensation or  
3 other benefits shall be deemed to have been suspended during  
4 the pendency of the civil action or proceeding under this  
5 section.

6       “(d) The Attorney General may compromise or settle  
7 any claim asserted in such civil action or proceeding in the  
8 manner provided in section 2677 of title 28 of the United  
9 States Code and with the same effect.

10       “(e) For purposes of this section, the provisions of sec-  
11 tion 2680(h) of title 28 of the United States Code shall not  
12 apply to any tort enumerated therein arising out of negli-  
13 gence in the furnishing of medical care or related services,  
14 including the conducting of clinical studies or investigations.

15       “(f) The Secretary may, to the extent he deems appro-  
16 priate, hold harmless or provide liability insurance for any  
17 person to whom the immunity provisions of subsection (a) of  
18 this section apply, for damages for personal injury, including  
19 death, negligently caused by any such person while acting  
20 within the scope of his or her office or employment and as a  
21 result of the furnishing of medical care or related services,  
22 including the conducting of clinical studies or investigations,  
23 if such person is assigned to a foreign area or detailed for  
24 service with other than a Federal agency or institution, or if  
25 the circumstances are such as are likely to preclude the rem-

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1 edies of third persons against the United States provided by  
2 sections 1346(b) and 2672 of title 28 of the United States  
3 Code, for such damage or injury.

4       “(g) For purposes of this section, any medical care or  
5 related service covered by this section and performed abroad  
6 by a covered person at the direction or with the approval of  
7 the United States Ambassador or other principal representa-  
8 tive of the United States in the area shall be deemed to be  
9 within the scope of employment of the individual performing  
10 the service.

11       “SEC. 30. POST EMPLOYEE SERVICES.—(a) The Sec-  
12 retary of State may authorize and assist in the establishment,  
13 maintenance, and operation by civilian officers and employees  
14 of the Government of non-Government-operated services and  
15 facilities at posts abroad, including the furnishing of space,  
16 utilities, and properties owned or leased by the Government  
17 for use by its diplomatic, consular, and other missions and  
18 posts abroad. The provisions of the Foreign Service Buildings  
19 Act of 1926 (22 U.S.C. 292–300) and section 13 of this Act  
20 may be utilized by the Secretary in providing such assistance.

21       “(b) The Secretary may establish and maintain emer-  
22 gency commissary or mess services in places abroad where in  
23 the Secretary’s judgment, such services are necessary tempo-  
24 rarily to insure the effective and efficient performance of offi-  
25 cial duties and responsibilities. Reimbursements incident to

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1 the maintenance and operation of commissary or mess service  
2 under this subsection shall be at not less than cost as deter-  
3 mined by the Secretary and shall be used as working funds:  
4 *Provided*, That an amount equal to the amount expended for  
5 such services shall be covered into the Treasury as miscella-  
6 neous receipts.

7 “(c) Services and facilities established under this section  
8 shall be made available, insofar as practicable, to officers and  
9 employees of all agencies and their dependents who are sta-  
10 tioned in the locality abroad. Such services and facilities shall  
11 not be established in localities where another agency oper-  
12 ates similar services or facilities unless the Secretary deter-  
13 mines that additional services or facilities are necessary.  
14 Other agencies shall to the extent practicable avoid duplicat-  
15 ing the facilities and services provided or assisted by the Sec-  
16 retary under this section.

17 “(d) Charges at any post abroad for a service or facility  
18 provided, authorized or assisted under this section shall be at  
19 the same rate for all civilian personnel of the Government  
20 serviced thereby, and all charges for supplies furnished to  
21 such a service or facility abroad by any agency shall be at the  
22 same rate as that charged by the furnishing agency to its  
23 comparable civilian services and facilities.”

24 (b) The authorities conferred upon the Secretary of  
25 State by sections 24 and 25 of such Act shall continue to be

1 available to the Director of the International Communication  
2 Agency and the Director of the International Development  
3 Cooperation Agency.

4 SEC. 2202. CONFORMING AMENDMENTS.—(a) The  
5 Peace Corps Act (22 U.S.C. 2501 et seq.) is amended as  
6 follows:

7 (1) In section 5(f)(1)(A), strike out “section  
8 852(a)(1) of the Foreign Service Act of 1946, as  
9 amended (22 U.S.C. 1092(a)(1))” and insert in lieu  
10 thereof “section 851(a) of the Foreign Service Act of  
11 1979”;

12 (2) In section 5(h)—

13 (A) strike out “section 1091 of the Foreign  
14 Service Act of 1946” and insert in lieu thereof  
15 “section 31 of the Act entitled ‘An Act to provide  
16 certain basic authority for the Department of  
17 State’, approved August 1, 1956 (22 U.S.C. 2684  
18 et seq.)”; and

19 (B) strike out “Director of Action” and  
20 insert in lieu thereof “President”;

21 (3) In section 7(a)(1)—

22 (A) strike out “the Foreign Service Reserve  
23 and Staff under the Foreign Service Act of 1946,  
24 as amended (22 U.S.C. 801 et seq.)” and insert



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1           in lieu thereof "the Foreign Service under the  
2           Foreign Service Act of 1979";

3           (B) strike out "section 528" and insert in  
4           lieu thereof "section 332";

5           (C) strike out the word "Reserve" the last  
6           place it appears and all that follows and insert in  
7           lieu thereof a period.

8           (4) Section 7(a)(2) is amended to read as follows:

9           "(2) The President may utilize such authority  
10          contained in the Foreign Service Act of 1979 relating  
11          to members of the Foreign Service and other United  
12          States Government officers and employees as the  
13          President deems necessary to carry out functions under  
14          this Act, except that—

15          (A) no Foreign Service appointment or as-  
16          signment under this paragraph shall be for a  
17          period of more than five years unless the Director  
18          of the Peace Corps, under special circumstances,  
19          personally approves an extension of not more than  
20          one year on an individual basis; and

21          (B) no person whose Foreign Service ap-  
22          pointment or assignment under this paragraph has  
23          been terminated shall be reappointed or reas-  
24          signed under this paragraph before the expiration

1 of a period of time equal to that person's preced-  
2 ing tour of duty.

3 Such provisions of that Act as the President deems ap-  
4 propriate shall apply to persons appointed or assigned  
5 under this paragraph, including in all cases, the provi-  
6 sions of section 332 of that Act: *Provided, however,*  
7 That the President may by regulation make exceptions  
8 to the application of section 332 in cases in which the  
9 period of the appointment or assignment exceeds thirty  
10 months: *Provided further,* That members of the For-  
11 eign Service appointed or assigned pursuant to this  
12 paragraph shall receive within-class salary increases in  
13 accordance with such regulations as the President may  
14 prescribe: *Provided further,* That under such regula-  
15 tions as the President may prescribe persons who are  
16 to perform duties of a more routine nature than are  
17 generally performed by members of the Foreign Serv-  
18 ice at the lowest class may be appointed to an unenu-  
19 merated class ranking below the lowest class of the  
20 Foreign Service Schedule and be paid basic compensa-  
21 tion at rates lower than those of the lowest class.”;

22 (5) In section 14(b), strike out “section 901 of the  
23 Foreign Service Act of 1946 (22 U.S.C. 1131)” and  
24 insert in lieu thereof “section 931 of the Foreign Serv-  
25 ice Act of 1979”.

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1 (b) The Foreign Assistance Act of 1961 (22 U.S.C.  
2 2151 et seq.) is amended as follows:

3 (1) Section 625(d)(1) (22 U.S.C. 2385(d)) is  
4 amended to read as follows:

5 “(1) employ or assign persons, or authorize the  
6 employment or assignment of officers or employees by  
7 agencies of the United States Government, who shall  
8 receive compensation at any of the rates provided for  
9 under section 411 or section 421 of the Foreign Serv-  
10 ice Act of 1979, together with allowances and benefits  
11 under that Act; and persons so employed or assigned  
12 shall be entitled, except to the extent that the Presi-  
13 dent may specify otherwise in cases in which the  
14 period of employment or assignment exceeds thirty  
15 months, to the same benefits as are provided by section  
16 332 of that Act for persons appointed to the Foreign  
17 Service.”;

18 (2) Section 631(b) (22 U.S.C. 2391) is amended  
19 by striking out the second sentence and inserting in  
20 lieu thereof “Such chief shall be entitled to receive  
21 such compensation and allowances as provided for in  
22 the Foreign Service Act of 1979, not to exceed those  
23 authorized for a chief of mission (within the meaning of  
24 that Act), as the President shall determine to be appro-  
25 priate.”;

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1           (3) Section 631(c) is amended by striking out the  
2           second sentence and inserting in lieu thereof "Such  
3           person may receive such compensation and allowances  
4           as are authorized by the Foreign Service Act, not to  
5           exceed those authorized for a chief of mission (within  
6           the meaning of that Act), as the President shall deter-  
7           mine to be appropriate."

8           (c) Section 42 of the Arms Control and Disarmament  
9           Act (22 U.S.C. 2582) is amended to read as follows:

10                   "FOREIGN SERVICE PERSONNEL

11                   "SEC. 42. (a) The Secretary of State may author-  
12           ize the Director to exercise, with respect to members  
13           of the Foreign Service appointed or employed for the  
14           Agency the following authority:

15                   (1) The authority available to the Secretary  
16           of State under the Foreign Service Act of 1979,  
17           and

18                   (2) the authority available to the Secretary  
19           under any other provisions of law pertaining spe-  
20           cifically or generally applicable to such members.

21                   "(b) Limited appointments of Foreign Service per-  
22           sonnel for the Agency may be extended or renewed,  
23           notwithstanding section 331 of the Foreign Service  
24           Act of 1979, so long as the service of the individual  
25           under such appointment does not exceed ten consecu-

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1       tive years without a break in service of at least one  
2       year.”.

3       SEC. 2203. SALARY FOR AMBASSADORS AT LARGE.—  
4       Section 5313 of title 5, United States Code, is amended by  
5       adding at the end thereof:

6               “(24) Ambassadors at Large.”

7       SEC. 2204. ATTORNEYS FEES IN BACKPAY CASES.—  
8       Section 5596(b) of title 5, United States Code, is amended—

9               (1) by amending paragraph (1)(A)(ii) by inserting  
10       immediately after “chapter 71 of this title,” the words  
11       “or under chapter 11 of the Foreign Service Act of  
12       1979,”;

13              (2) by amending paragraph (3)—

14                    (A) by inserting immediately after “section  
15       7103 of this title” the words “and (with respect  
16       to Foreign Service personnel) in sections 1002  
17       and 1101 of the Foreign Service Act of 1979”;  
18       and

19                    (B) by inserting immediately after “section  
20       7116 of this title” the words “and (with respect  
21       to Foreign Service personnel) in section 1031 of  
22       the Foreign Service Act of 1979”.

23       SEC. 2205. LEAVE FOR SENIOR FOREIGN SERVICE.—  
24       Section 6304 of title 5, United States Code, is amended—

1 (1) in subsection (a) by striking out "and (f)" and  
2 inserting in lieu thereof "(f), and (g)"; and

3 (2) by adding at the end thereof the following new  
4 subsection:

5 "(g) Annual leave accrued by a member of the  
6 Senior Foreign Service shall not be subject to the limi-  
7 tation on accumulation otherwise imposed by this sec-  
8 tion."

9 CHAPTER 3—REPEALS

10 SEC. 2301. REPEALED PROVISIONS.—There are re-  
11 pealed—

12 (1) the Foreign Service Act of 1946 (22 U.S.C.  
13 801-817, 821, 822, 826, 827, 841-843, 846, 861,  
14 866-873, 876, 877, 881, 882, 886, 889, 890, 896,  
15 900-902, 906-915, 921-924, 926-932, 936-939,  
16 946, 947, 951, 961-966, 968, 981, 986, 987,  
17 991-996, 1001-1009, 1016, 1017, 1021, 1022,  
18 1026-1028, 1031, 1036, 1037-1037c, 1041-1048,  
19 1061-1065, 1071, 1076-1079s, 1081, 1082, 1084,  
20 1086, 1091, 1093, 1095, 1101, 1103, 1106, 1111,  
21 1112, 1116, 1121, 1131, 1136-1138a, 1139,  
22 1148-1151 and 1156-1160);

23 (2) sections 401 and 413 of the Foreign Relations  
24 Authorization Act, Fiscal Year 1979 (92 Stat. 981,  
25 986);

1 (3) section 413 of the Foreign Relations Authori-  
2 zation Act, Fiscal Year 1978 (91 Stat. 857);

3 (4) sections 117, 120, and 522 of the Foreign Re-  
4 lations Authorization Act, Fiscal Year 1977 (90 Stat.  
5 827, 829, 846);

6 (5) section 6 of the Department of State Appro-  
7 priations Authorization Act of 1973 (87 Stat. 452);

8 (6) the Act entitled "An Act to promote the for-  
9 eign policy of the United States by strengthening and  
10 improving the Foreign Service personnel system of the  
11 International Communication Agency through estab-  
12 lishment of a Foreign Service Information Officer  
13 Corps, approved August 20, 1968 (22 U.S.C.  
14 929-932, 1221-1232);

15 (7) paragraph (2) of subsection (d) and subsections  
16 (e) (g), (j), and (k) of section 625 of the Foreign Assist-  
17 ance Act of 1961 (22 U.S.C. 2385(d)(2), (e), (g), (j),  
18 and (k)), except that the effective date of the repeal of  
19 subsection (k) shall be January 1, 1982;

20 (8) section 7(b) of the Peace Corps Act (22  
21 U.S.C. 2506(b)); and

22 (9) section 124(a)(2) of the International Develop-  
23 ment and Food Assistance Act of 1977 (91 Stat. 542).

## 1 CHAPTER 4—SEVERABILITY, SAVING PROVISION,

## 2 REPORTS, AND EFFECTIVE DATE

3 SEC. 2401. SEVERABILITY.—If any provision of this  
4 Act or the application thereof to any person or circumstance  
5 is held invalid, the remainder of the Act and the application  
6 of such provision to any other person or circumstance shall  
7 not be affected thereby.

8 SEC. 2402. SAVING PROVISION.—All determinations,  
9 authorizations, regulations, orders, agreements, exclusive  
10 recognition of an organization or other actions made, issued,  
11 undertaken, entered into or taken under the authority of the  
12 Foreign Service Act of 1946 or any other law repealed,  
13 modified, or affected by this Act shall continue in full force  
14 and effect until modified, revoked, or superseded by appropri-  
15 ate authority. Any grievances, claims, or appeals which were  
16 filed or made under any such law and are pending resolution  
17 on the effective date of this Act shall continue to be governed  
18 by the provisions repealed, modified, or affected by this Act.  
19 References in law to provisions of the Foreign Service Act of  
20 1946 or other law superseded by this Act shall be deemed to  
21 include reference to the corresponding provisions of this Act.

22 SEC. 2403. REPORTS.—Not later than eighteen months  
23 after the effective date of this Act, the Secretary of State  
24 shall submit to the Speaker of the House of Representatives  
25 and the Committee on Foreign Relations of the Senate a



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1 report describing the steps taken in furtherance of this Act's  
2 objective (as set out in sections 101(b)(9) and 1203 of the  
3 Foreign Service Act of 1979) of achieving maximum com-  
4 patibility among the agencies utilizing the Foreign Service  
5 personnel system and including such recommendations as the  
6 Secretary believes will assist in achieving that objective. The  
7 Secretary shall keep the Congress informed on a continuing  
8 basis on progress made in pursuit of the goal of maximum  
9 compatibility.

10 SEC. 2404. EFFECTIVE DATE.—This Act shall take  
11 effect on January 1, 1980.

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